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IN THE SUPREME COURT OF THE STATE OF IDAHO

THE STATE OF IDAHO,	)	Supreme Court No. _____
	)	
Plaintiff-Respondent,	)	
	)	
vs	)	COURT REPORTER'S TRANSCRIPT
	)	
THOMAS EUGENE CREECH,	)	
	)	
Defendant-Appellant.	)	
_____	)	

BEFORE  
HONORABLE J. RAY DURTSCHI  
DISTRICT JUDGE

APPEAL from the District Court of the First  
Judicial District of the State of Idaho, in and for the  
County of Shoshone.

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A P P E A R A N C E S

WAYNE KIDWELL, Esq. Attorney General of the State of Idaho, Capitol Building, Boise, Idaho, for and on behalf of the plaintiff-respondent.

BRUCE O. ROBINSON, Esq., Post Office Box 8, Nampa, Idaho, appearing for and on behalf of the defendant-appellant.



1 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
2 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE  
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4

5 THE STATE OF IDAHO, )  
6 )

7 Plaintiff, )  
8 )

9 vs )  
10 )

11 THOMAS EUGENE CREECH, )  
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13 Defendant. )  
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Cr. No. 2165

REPORTER'S TRANSCRIPT

BEFORE

HONORABLE J. RAY DURTSCHI

DISTRICT JUDGE

BE IT REMEMBERED, That the above-entitled matter came  
on for hearing and trial before the Honorable J. Ray Durtschi,  
District Judge, with a jury, at Cascade, Idaho, May 20, 1975  
through May 22, 1975, and at Wallace, Idaho, October 6, 1975  
through October 22, 1975.

A P P E A R A N C E S

ROBERT REMAKLUS, Esq., Prosecuting Attorney, Cascade, Idaho, and  
LYNN THOMAS, Esq., Deputy Attorney General, Statehouse, Boise,  
Idaho, appearing for and on behalf of the plaintiff.

BRUCE O. ROBINSON, Esq., Post Office Box 8, Nampa, Idaho,  
appearing for and on behalf of the defendant, and

WARD HOWER, Esq., Post Office Box 799, Cascade, Idaho,  
appearing for and on behalf of the defendant.

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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE

THE STATE OF IDAHO,	)	Cr. No. 2165
	)	
Plaintiff-Respondent,	)	
	)	LODGMET OF COURT
vs	)	REPORTER'S TRANSCRIPT
	)	ON APPEAL
THOMAS EUGENE CREECH,	)	
	)	
Defendant-Appellant.	)	

RECEIVED from John W. Gambee, Official Court Reporter  
of the above-entitled court, and lodged with me this \_\_\_\_ day  
of \_\_\_\_\_, 1976, original plus \_\_\_\_\_ copies of  
the Court Reporter's Transcript on Appeal.

CLERK OF THE DISTRICT COURT

\_\_\_\_\_  
Deputy

1 WALLACE, IDAHO, FRIDAY, OCTOBER 17, 1975, 9:30 A.M.

2 (Jury re-entered the courtroom.)

3  
4 THE COURT: Let the record show the jurors are all  
5 present.

6 MR. ROBINSON: May I proceed, Your Honor?

7 THE COURT: Yes.

8  
9 DIRECT EXAMINATION (Continued)

10 BY MR. ROBINSON:

11 Q Tom, during those four or five days you were in  
12 Lewiston, Idaho prior to the 3rd day of November, 1974, did  
13 you use the phone, both at Mrs. Spaulding's, Mr. Schreiber's  
14 place, as well as the Fry Hotel for making phone calls?

15 A Yes, I did.

16 Q Were those long distance telephone calls?

17 A Most of them were.

18 Q And to whom were those calls made?

19 MR. REMAKLUS: Object on the grounds -- I'll withdraw it,  
20 Your Honor.

21 THE WITNESS: One was to my brother in Ohio, one was to  
22 my sister, one was to Peter Simons and a couple more to  
23 Fresno Chapter.

24 Q BY MR. ROBINSON: To who?

25 A Fresno Chapter.

1 Q And in those phone calls, did you receive any  
2 direction from either Peter Simons or the Fresno Chapter --

3 MR. REMAKLUS: I'm going to object to that, Your Honor,  
4 on the grounds that, first of all, I think that an offer of  
5 proof should be made to show relevancy. Certainly not  
6 relevant to any of the issues in this case, and, before there's  
7 any more of this dropping of prominent names, I feel that the  
8 Court should have an opportunity to review this testimony.

9 THE COURT: Well, is this going to be directly tied  
10 up, Mr. Robinson, to the -- your representation of what this  
11 evidence is relevant to?

12 MR. ROBINSON: Your Honor, it goes to his direction and  
13 working out his destination in Denver.

14 THE COURT: I'm going to sustain the objection if there's  
15 one made, then. I don't think that particularly is relevant.

16 MR. ROBINSON: All right, sir, I'll go on to another  
17 subject.

18 Q BY MR. ROBINSON: Tom, when did you first meet  
19 Carol Spaulding?

20 A September of 1974.

21 Q Where?

22 A Fresno, California.

23 Q And what were the circumstances of your and Carol's  
24 meeting?

25 A She was working at a carnival, at the same

1 carnival that I was working at.

2 Q What is the definition of the slang term  
3 "old lady" as connected with the biker organizations?

4 A Girl you live with.

5 Q Girl friend?

6 A Just a girl that you live with.

7 Q At the time that you met Carol, was she someone's  
8 old lady?

9 MR. REMAKLUS: I'll object on the grounds it's  
10 irrelevant and not probative of any issues in this case.

11 I think that the circumstances of meeting with  
12 Carol have already been developed, Your Honor.

13 THE COURT: Overruled. I'll sustain the objection on  
14 the ground that there hasn't been a proper foundation to show  
15 personal knowledge.

16 Q BY MR. ROBINSON: What is the basis of your  
17 knowledge, Tom?

18 A Of Carol's -- the guy Carol was with when I met  
19 her?

20 Q Yes.

21 A I met him personally.

22 Q For how long prior to her taking up with you?

23 A For three or four days.

24 Q And who was she the old lady of at that time?

25 MR. REMAKLUS: I'll object on the ground that no

1 foundation has been laid.

2 THE COURT: Sustained.

3 Q BY MR. ROBINSON: Tom, further than having just  
4 met them, what observations did you make of their behavior  
5 together?

6 A That they didn't want to be together; that Carol  
7 didn't want to be with him.

8 Q And what was the extent that you knew that they had  
9 been together?

10 MR. REMAKLUS: This calls for conclusion of the  
11 witness and certainly no foundation has been laid, Your Honor.

12 THE COURT: Sustained.

13 Q BY MR. ROBINSON: After you met Carol in early  
14 September of 1974, were either you or she together with any  
15 other persons besides each other during the interim from then  
16 until November 3, 1974?

17 A With any other people?

18 Q Going with anyone else.

19 MR. REMAKLUS: I will object to the last question on  
20 the grounds of no foundation.

21 THE COURT: Overruled.

22 THE WITNESS: Yes, we were.

23 Q BY MR. ROBINSON: Was Carol, during that period  
24 of time, any other persons' old lady?

25 MR. REMAKLUS: Object on the grounds of no foundation,

1 Your Honor.

2 THE COURT: Sustained.

3 Q BY MR. ROBINSON: What is the tattoo mark on your

4 right chin up under your right eye?

5 A Patchuco mark, death cross.

6 Q What?

7 A Patchuco mark, death cross.

8 Q And does it have any particular meaning beyond

9 what you've just stated?

10 A Yes.

11 Q And what is that?

12 A I'd rather not say.

13 Q All right. Do you have other tattoos connected

14 with the bikers or the Satanic Cult?

15 A Yes, I do.

16 Q And on your right arm, what are those?

17 A Just on my right hand is a snake and a cross.

18 Q And what is the significance of that tattoo?

19 A I'd rather not answer that too.

20 Q How many other tattoos do you have?

21 A Quite a few.

22 Q Do you know the number?

23 A Not right offhand.

24 Q Who are Aboo and Chico?

25 A Bikers.



1 Q Are they Enforcers in the bikers' organizations?  
2 MR. REMAKLUS: I'll object on the ground that no  
3 foundation has been laid to show relevancy in this case.  
4 THE COURT: Well, are you going to connect it up,  
5 Mr. Robinson?  
6 MR. ROBINSON: Yes, Your Honor.  
7 THE COURT: All right. Overruled.  
8 THE WITNESS: Yes, they are.  
9 Q BY MR. ROBINSON: What are their true names?  
10 A Chico's name is Gordon Perot (sp).  
11 Q How do you spell that last name? And Aboo?  
12 A I'm not positive.  
13 Q Do you know his last name?  
14 A Not right offhand.  
15 Q Did you attain a status rank as Enforcer nationally?  
16 MR. REMAKLUS: Object on the ground this is repetitious.  
17 MR. ROBINSON: This is not, Your Honor, not the same  
18 the same subject matter.  
19 THE COURT: Yeah, overruled.  
20 THE WITNESS: Yes, I did.  
21 Q BY MR. ROBINSON: As an Enforcer, where do you  
22 rank nationally?  
23 A Eighth.  
24 Q Pardon?  
25 A Eighth.

1 Q You mean there are seven other Enforcers that rank  
2 higher than you in the national organization?

3 A Yes, they are.

4 Q Are Aboo and Chico two of those seven?

5 A Yes, they are.

6 Q Did you kill an FBI agent?

7 A Yes, I did.

8 Q When and where?

9 A In Tucson, Arizona.

10 Q When?

11 A In 1973.

12 Q You recall the month?

13 A No, I don't.

14 Q Would you tell us the circumstances to that  
15 killing?

16 A His daughter had been kidnapped and slain and he  
17 thought that I had done it. He was under the direct pay of  
18 Peter Simons also.

19 MR. REMAKLUS: Object to this. There's no basis for  
20 these things. He hasn't shown any foundation for it.

21 THE COURT: Sustained. Strike that statement and  
22 instruct you to disregard it, ladies and gentlemen.

23 Q BY MR. ROBINSON: Then, describe specifically as  
24 to the events when the actual killing took place.

25 A I met him outside of Benson, Arizona, and we drove

1 to a spot out by one of the casinos and over into the desert  
2 area. He then told me that he was going to kill me and we  
3 fought for his weapon and I shot him with his Service pistol.

4 Q Did you dispose of his body?

5 A There at the spot, yes.

6 Q In what manner?

7 A Just buried him under the sand.

8 MR. ROBINSON: May I approach the Clerk, Your Honor?

9 THE COURT: Yes.

10 (Defendant's Exhibit I marked for identification.)

11 MR. ROBINSON: May I approach the witness, Your Honor?

12 THE COURT: Yes.

13 Q BY MR. ROBINSON: Tom, I hand you what has been  
14 marked for identification as Defendant's Exhibit I. On the  
15 back of that document, is that a photograph of  
16 Anton Szandor LaVey?

17 A Yes, it is.

18 Q What does that document purport to be?

19 A The Satanic Bible.

20 Q Is this the Bible you used in the Satanic Cult  
21 that you have described?

22 A Yes, it is.

23 Q That you are a Priest in the Cult?

24 A Yes, it is.

25 MR. ROBINSON: We ask the admission of Defendant's

1 Exhibit No. I, Your Honor.

2 MR. REMAKLUS: I would object on the ground that there's  
3 no foundation that's been laid, Your Honor, and not relevant in  
4 this case.

5 THE COURT: Yes, I'm going to sustain the objection  
6 unless it's shown to be relevant to the defendant of defendant's  
7 later experts that are permitted to testify.

8 Q BY MR. ROBINSON: Tom, does this document contain  
9 the doctrine and discipline that you followed as member of the  
10 Satanic Cult?

11 A Yes, it does.

12 Q And have you referred to this document many, many  
13 times since first becoming a member of the Satanic Cult?

14 A Yes, I have.

15 Q Are there doctrines and disciplines contained in  
16 this document responsible for many of your activities?

17 MR. REMAKLUS: I would object to that as calling for a  
18 conclusion of the witness. This is evading the province of  
19 the jury.

20 THE COURT: Overruled.

21 THE WITNESS: Yes, it is.

22 MR. ROBINSON: Again, Your Honor, we would offer  
23 Defendant's Exhibit No. I.

24 MR. REMAKLUS: I would object on the ground of  
25 irrelevancy; that no foundation has been laid, Your Honor.

1 THE COURT: Yes. I'm going to sustain the objection.

2 Q BY MR. ROBINSON: Since you've been incarcerated  
3 in Ada County Jail, Boise, Idaho, have you had many visitors  
4 from the Christian faith that have ministered with you?

5 MR. REMAKLUS: Object on the grounds that it's  
6 irrelevant and no foundation is laid.

7 THE COURT: Overruled.

8 THE WITNESS: Yes, I have.

9 Q BY MR. ROBINSON: Would you name some of those  
10 persons?

11 A John Barnes from Cole church in Boise,  
12 Lynn Plowman from Cole church, Boise, the ex-Sheriff of  
13 Ada County from Boise, Idaho.

14 Q That would be Paul Bright?

15 A Yes, Paul Bright.

16 Q All right. Who else?

17 A Several other people that I can't remember their  
18 names.

19 Q Tom, you previously testified that you used to be  
20 a member of the Satanic Cult. Have you re-established  
21 allegiance in the Christian faith?

22 A I can only answer that yes and no.

23 Q And would you explain your yes and no answer?

24 A I'm still not decided between Satan and God.

25 Q Undecided?

1 A. Yes.

2 Q. All right. Have you been ministered to since being  
3 incarcerated here in Shoshone County?

4 A. Yes, I have.

5 Q. By whom?

6 A. Pastor Vance.

7 Q. Prior to your appearing on the witness stand  
8 yesterday, in any of the other sessions were you ever placed  
9 under oath?

10 A. In any other statements that I made?

11 Q. Yeah, since you were apprehended and arrested in  
12 Glenns Ferry, Idaho?

13 A. When I went to arraignment I think I was placed  
14 under oath.

15 Q. And when was that?

16 A. Right after I first got picked up.

17 Q. All right. Prior to the scheduling of your  
18 trial May the 20th, 1974, had you submitted to many sessions  
19 of questions propounded to you by law enforcement officers in  
20 various states and in this state?

21 A. Yes.

22 Q. Had you voluntarily submitted to sessions by the  
23 psychiatrist, Dr. Heyrend, in Boise, Idaho, and placed under  
24 Sodium Ametol and Ridelene?

25 MR. REMAKLUS: I'll object to that on the grounds no

1 foundation has been laid. It's improper direct examination  
2 and violates the law of the case, Your Honor.

3 THE COURT: Objection sustained.

4 Q BY MR. ROBINSON: Did you voluntarily submit to  
5 hypnotic sessions by Dr. Heyrend; conducted by the State?

6 MR. REMAKLUS: I would object on the same grounds,  
7 Your Honor.

8 THE COURT: Sustained.

9 Q BY MR. ROBINSON: Tom, did you submit to a polygraph  
10 by the State?

11 MR. REMAKLUS: I would object on the same grounds,  
12 Your Honor.

13 THE COURT: Sustained.

14 MR. ROBINSON: You may examine, Counsel.

15  
16 CROSS EXAMINATION

17 BY MR. REMAKLUS:

18 Q Mr. Creech, I think you testified that the first  
19 person you killed was somebody you drowned back in Ohio, is  
20 that right?

21 A Yes, sir.

22 Q Is that Danny Johnson?

23 A Yes, sir.

24 Q Was he about a 12-year old boy?

25 A No, he wasn't.

1 Q How old did you say he was?  
2 A I don't believe I said how old he was. But, he  
3 was 16 or 17.  
4 Q And did you describe him as being a sissy?  
5 A Maybe I did.  
6 Q Maybe you described him that way to Bud Mason and  
7 Chuck Palmer?  
8 A Possibly.  
9 Q What does "sissy" mean?  
10 A To me it means someone with no class and no heart.  
11 Q I thought you testified recently that it meant a  
12 queer.  
13 A It could mean that too.  
14 Q Now, after you drowned Danny Johnson, I think you  
15 said because you thought that he had killed your girl friend,  
16 Sandy Scott, is that right?  
17 A Yes, sir.  
18 Q So, immediately after that you said you took off  
19 for California?  
20 A Yes, sir.  
21 Q With Karen Stoddis?  
22 A Yes, sir.  
23 Q How long after that was -- how long after you  
24 drowned Danny that you took off with Karen Stoddis?  
25 A After I had worked for awhile.



1 Q That was a sightseeing trip you said in response to  
2 one of Mr. Robinson's questions. Is that true?  
3 A Was it a sightseeing trip?  
4 Q Well, it -- you said that it took several days  
5 longer to get to California because you had never been away  
6 from home before.  
7 A It wasn't exactly a sightseeing trip, though.  
8 Q Well, what was it?  
9 A An escape route, possibly.  
10 Q Then, you testified you had a lot of trouble in  
11 San Francisco; is that correct?  
12 A Yes, sir.  
13 Q And did you meet Freddy Richardson in  
14 San Francisco?  
15 A No, sir.  
16 Q Was that after you got back to Ohio?  
17 A I had known Freddy Richardson before. But, I did  
18 meet him when I come back to Ohio.  
19 Q And this is the Freddy Richardson you said was  
20 President of the Outlaws?  
21 A Yes, sir.  
22 Q Now, is this the Freddy Richardson you told Gene,  
23 Gene Hilby, you shot there in Portland?  
24 A I think so, sir.  
25 Q That's when you shot Billy Dean; wasn't it?

1           A.     Yes, sir.

2           Q.     Now, is this the Gene Hilby that was in the  
3 courtroom sitting out in the audience when you testified  
4 yesterday?

5           A.     Did you want me to recognize him?

6           Q.     I'm just asking.

7           A.     Well, would you rephrase that question?

8           Q.     Is the Gene Hilby that you made this statement  
9 about Freddy Richardson to over in Portland when you shot  
10 Billy Dean; is that the same Gene Hilby that was sitting in  
11 the courtroom yesterday when you were testifying?

12          A.     Yes, sir.

13          Q.     Is he present in the courtroom right now?

14          A.     Yes, he is.

15          Q.     I'd like to have -- would you point out Mr. Hilby?

16          A.     He is sitting by Deputy Maxwell's wife.

17          MR. REMAKLUS:  Would you please stand up so there's  
18 no mistake.

19                   (Person in the audience stood up.)

20          Q.     BY MR. REMAKLUS:  Is this the man that you mean  
21 as Gene Hilby?

22          A.     Yes, sir.

23          Q.     Thank you.  I think my notes show that you said  
24 Cricket was born on September 2nd, 1968.

25          A.     September 22nd.

1 Q September 22nd? Do you know where she is now?  
2 A No, I don't.  
3 Q Is she with her mother?  
4 A I think so. I'm not sure.  
5 Q And where were they the last time you heard of  
6 them?  
7 A In Brentwood, California.  
8 Q And about when was that?  
9 A I don't remember when I received my last letter  
10 from my wife.  
11 Q And where were you when you received it?  
12 A The last letter?  
13 Q Yes.  
14 A Ada County Jail, Boise, Idaho.  
15 Q So that would have been sometime, then, after  
16 November 8th, 1974; is that correct?  
17 A That's right.  
18 Q Did you write a letter to Miss Plowman referring to  
19 the fact that your daughter, Cricket, had been kidnapped?  
20 A Yes, I did.  
21 Q And you asked her for \$5,000 in that letter; didn't  
22 you?  
23 A Yes, I did.  
24 Q Is that the letter that you told her that you could  
25 get -- through the national organization you could turn that

1 into \$25,000 immediately for your defense in this case?

2 A. Yes, I did.

3 Q. Did you ever get any money from her?

4 A. No, because I think the Attorney General's office  
5 intercepted the letter.

6 Q. Is that the same story that you told your own  
7 attorney and got \$1,000 from him? You told him that you could  
8 take that \$1,000 and, through the national organization, get  
9 \$5,000 for it?

10 A. Not exactly the same story, no.

11 Q. Well, what did you tell him?

12 MR. ROBINSON: Objection as to immaterial and beyond  
13 direct.

14 MR. REMAKLUS: Your Honor, I think on cross-examination  
15 we have the opportunity to show the character of the witness.  
16 I certainly have an offer of proof in this regard.

17 THE COURT: Well, I'm going to sustain the objection  
18 if you want to make an offer of proof. I think you are going  
19 into an area of confidential relations. If you are going to  
20 start relating what he told his attorney I'd sustain the  
21 objection on that ground also.

22 MR. REMAKLUS: I wish to pursue this line of questioning  
23 but, perhaps, I should do so in the absence of the jury,  
24 Your Honor.

25 THE COURT: All right, we'll take this up out of your

1 presence, ladies and gentlemen. If you will remember the  
2 admonition, don't discuss the case and keep your minds open.

3 (Jury left the courtroom.)

4 MR. REMAKLUS: May I proceed?

5 THE COURT: No, make your offer of proof.

6 MR. REMAKLUS: May I make it orally?

7 THE COURT: Yes.

8 MR. REMAKLUS: It was my intention to show that the  
9 sum of \$1,000 was given by Mr. Robinson for -- at the request  
10 of this witness and that the money was given for the purpose of  
11 being given to the national organization to be increased to  
12 \$5,000 for fees and that the money actually was delivered, it  
13 was turned over to Mr. Creech's brother and he used it to buy  
14 an automobile with and then departed from this area.

15 THE COURT: Any objection, Mr. Robinson?

16 MR. ROBINSON: Yes, Your Honor. First of all, those  
17 aren't the circumstances.

18 THE COURT: I don't need it argued. Just state your  
19 objection.

20 MR. ROBINSON: I state the objection that not only is  
21 this beyond the scope of direct, I also believe that it is an  
22 invasion of the attorney-client relationship. I would  
23 instruct Mr. Creech not to answer it on that basis and I  
24 assume that the waiver of that is up to Mr. Creech. But, my  
25 instruction would be, as his Counsel, not to answer and claim

1 that privilege.

2 THE COURT: Do you want to claim that as a privileged  
3 communication?

4 THE WITNESS: Yes, I will.

5 THE COURT: All right. I'm going to sustain the  
6 objection.

7 Bring the jury back.

8 (Jury re-entered the courtroom.)

9  
10 CROSS EXAMINATION (Continued)

11 BY MR. REMAKLUS:

12 Q Mr. Creech, you've testified --

13 THE COURT: Just a minute.

14 Let the record show the jurors are all present.  
15 Go ahead.

16 Q BY MR. REMAKLUS: Mr. Creech, you have testified  
17 as to a number of killings here in the courtroom. Now, have  
18 you -- were these killings done for money?

19 A Which ones are you talking about?

20 Q Well, any of them.

21 A Some of them were, yes.

22 Q And were the killings that were ordered by the  
23 bikers, were they done for money?

24 A If it was ordered by National Council then I had  
25 no control.

1 Q And how much money did you collect during these --  
2 this period of time that you've described to us for these  
3 killings?

4 A I'd rather not answer that.

5 MR. REMAKLUS: Your Honor, would you direct the witness  
6 to answer.

7 THE COURT: Yes, on the matters you've covered on  
8 your direct examination you've waived your right of  
9 self-incrimination. As to any matters beyond the scope of  
10 the direct you haven't. But, I feel that's within the scope of  
11 your direct examination.

12 THE WITNESS: Could you specify on which contract?

13 Q BY MR. REMAKLUS: Yes, we can go back and take  
14 your statement.

15 Were you paid to kill Larry -- or LeRoy Fields?

16 A LeRoy Fields is a friend of mine.

17 Q And did you kill him?

18 A No, he's alive and well.

19 Q You stated that you got five contracts from  
20 Freddy Richardson in Dayton, Ohio when he was President of  
21 the Outlaws and this is soon after you returned, I think from  
22 San Francisco, California to Ohio?

23 Is this -- that was your testimony; wasn't it?

24 A Yes, sir, it was.

25 Q And how much money did you get for each one of those?

1 A. I didn't get no money at all.

2 Q. And what was the purpose, then, of performing these

3 contracts?

4 A. I gained a rank of Chief Enforcer in that Chapter.

5 Q. And how about future contracts for the bikers?

6 Why don't you go through them in the order that you recounted

7 them yesterday and give us the amounts.

8 MR. ROBINSON: Object to the generalization. Questions

9 should be asked specifically for the specific answers.

10 THE COURT: Sustained.

11 MR. REMAKLUS: Fine.

12 Q. BY MR. REMAKLUS: On December -- you testified that

13 you killed the person referred to as Ski; is that correct?

14 A. Yes, sir.

15 Q. And where did you kill him?

16 A. Hamilton, Ohio.

17 Q. And when was that?

18 A. December -- November of 1968.

19 Q. And how much did you get for that?

20 A. That wasn't a contract killing.

21 Q. Now, you testified that you killed Carey Whitesell;

22 is that correct?

23 A. Yes, sir.

24 Q. Did you collect money for that?

25 A. No, I did not.



1 Q And why not?  
2 A It was not a contract kill.  
3 Q And after that you testified that you killed six  
4 others in -- someplace in Kentucky, a Donald Anderson; is that  
5 correct?  
6 A Yes, sir.  
7 Q Did you kill Don Anderson in Kentucky?  
8 A Yes, sir.  
9 Q Did you collect money for that?  
10 A No, I did not.  
11 Q And why did you kill him?  
12 A Personal reasons.  
13 Q Is he one of the ones that you said that had done  
14 something to your father?  
15 A Yes, sir.  
16 Q And who did you kill at Covington, Kentucky?  
17 A Another one of my father's enemies.  
18 Q And did you receive any money for that killing?  
19 A No, I did not.  
20 Q The next you testified to four others who had done  
21 something to your father; is that correct?  
22 A Yes, sir.  
23 Q Now, when you killed them, were you paid any  
24 money?  
25 A No, I was not.

1 Q Now, you also testified as to ritual killings in  
2 1972 in Salt Lake City, two killings -- two to three ritual  
3 killings in Ogden, 1972, and I think you said about the same in  
4 Beaver, Utah, 1972. Did you receive any money for any of those?

5 A No, I did not.

6 Q And also you said that there was some sacrifices  
7 in Tulsa when you were present; is this correct?

8 A Yes, sir.

9 Q Did you get any money for those?

10 A No, I did not.

11 Q You said Tom Carey kidnapped Tomisene so you didn't  
12 get any money for shooting him, is that right?

13 A No, I didn't.

14 Q And Paul Shrader down in Arizona. Did you get  
15 money for killing him?

16 A I was paid money for information, but not for  
17 killing him.

18 Q And how much money was that?

19 A The contract was for \$10,000 but I only received  
20 partial of it.

21 Q How much of it did you get?

22 A Maybe a total altogether of \$1,500.

23 Q Did you ever make a statement in your own  
24 handwriting that you were paid \$10,000 to seek out one  
25 Paul C. Shrader?

1           A.     I believe I did, sir.

2           MR. REMAKLUS:  Would you mark this a State's Exhibit?

3                   (State's Exhibit No. 65 marked for

4     identification.)

5           MR. REMAKLUS:  May I approach the witness, Your Honor?

6           THE COURT:  Yes.

7           Q     BY MR. REMAKLUS:  Mr. Creech, handing you what's

8     been marked for identification as Plaintiff's Exhibit No. 65,

9     would you tell me whether or not that is the handwritten

10    statement made by you?

11          A.     It appears to be, yes.

12          Q     When did you make this statement?

13          A.     I think when I was in Grangeville, Idaho.

14          Q     And this is entirely in your handwriting; is it

15    not?

16          A.     Yes, sir.

17          Q     This does state that you -- "I was paid \$10,000

18    to seek out Paul Shrader."

19          A.     Could I see it again?

20          Q     Yes, right in near my thumb.

21          A.     Yes, it does say that.

22          MR. ROBINSON:  Objection to the testimony on it unless

23    it's offered, Your Honor.

24          MR. REMAKLUS:  I would offer it.

25          THE COURT:  Well, the objection is overruled.

1 MR. REMAKLUS: I would offer State's Exhibit 65.  
2 MR. ROBINSON: No objection, Your Honor.  
3 THE COURT: Sixty-five will be admitted.  
4 (State's Exhibit No. 65 admitted into evidence.)  
5 MR. REMAKLUS: I would ask permission only to read a  
6 portion of this into the record starting on the first page and --  
7 THE COURT: Well, unless Counsel agrees you are either  
8 going to have to read it all or read none of it and let the  
9 jury read it.  
10 MR. ROBINSON: I would desire all of it read or, rather,  
11 leave it for the jury to read themselves.  
12 THE COURT: You'll have to do it one way or the other.  
13 MR. REMAKLUS: I'm not going to read it.  
14 Q BY MR. REMAKLUS: But, your testimony now is that  
15 you didn't get the \$10,000, you only got \$1,500, is that right?  
16 A That's right.  
17 Q Now, you said that after the Arizona incident that  
18 you killed Sanchez at Victorville, California; is this  
19 correct?  
20 A Yes, sir.  
21 Q And was that a gangland -- or was that an ordered  
22 killing?  
23 A No, it was not.  
24 Q So, you weren't paid for that one; is that  
25 correct?

1 A. No, I wasn't.

2 Q. You further testified that you killed two men who

3 you say raped Tomisene. They were killed down at Tucson,

4 Arizona; is this correct?

5 A. Yes, sir.

6 Q. And was this an ordered killing, either one of

7 them?

8 A. No, they were not.

9 Q. And did you collect any money there?

10 A. No, I didn't.

11 Q. You testified while on leave from an Oregon

12 Hospital that you strangled Vivian Grant Robinson?

13 A. Yes, sir.

14 Q. Was that an ordered killing?

15 A. It was a contract killing.

16 Q. Contract killing? Were you paid for that?

17 A. Yes, but I don't remember how much.

18 Q. And in August, 1974 you said you killed JoJo, a

19 rival biker; is that correct?

20 A. Yes, sir.

21 Q. And was that a contract killing?

22 A. No, it wasn't.

23 Q. So that you didn't get anything for that?

24 A. No, I didn't.

25 Q. Was JoJo a deaf mute?

1 A. Yes, he was.

2 Q. And didn't you tell Bud Mason you killed him with

3 a .25 caliber automatic?

4 A. I possibly could have told him that.

5 Q. And yesterday you said you shot him with a .32

6 automatic. Now, do you know which you shot him with?

7 A. To be sure, no, I don't.

8 Q. Going back to Vivian Grant Robinson, how old a man

9 was he?

10 A. Thirty-seven or thirty-eight.

11 Q. Now, going up to Seattle you just testified that

12 you killed a Joe Daga; is that correct, the correct

13 pronunciation?

14 A. Yes, sir.

15 Q. Was that a contract killing?

16 A. Yes and no.

17 Q. Would you explain what you mean, please.

18 A. Well, I had my own personal reasons behind it too.

19 Q. As I -- my notes show that yesterday you said that

20 he was prospecting for the bikers and you took a contract?

21 A. That's right.

22 Q. Well, did you get any money for killing him?

23 A. No, I did not.

24 Q. So, that was a contract killing that you performed

25 for nothing; is this correct?

1           A.     Under orders of Council, yes, sir.  
2           Q.     Now, a David -- there -- you said that you killed  
3 a David, someone, while in Seattle and would you tell me who  
4 that is?  
5           A.     I don't believe I said I killed nobody named  
6 David.  
7           Q.     Did you shoot somebody in the leg whose name was  
8 David?  
9           A.     Yes, sir, I did.  
10          Q.     And who was that?  
11          A.     David Craneo.  
12          Q.     David Craneo?  
13          A.     Yes, sir.  
14          Q.     And is he the one you took out to some lake by  
15 Snoqualmie Pass?  
16          A.     No, sir, it's not.  
17          Q.     And who did you take out to Snoqualmie Pass then?  
18          A.     Joe Daga.  
19          Q.     Did David Craneo help you do that?  
20          A.     No, David Craneo didn't.  
21          Q.     And at that time in your testimony that you  
22 started talking about Beaver, Utah burial grounds. Did you put  
23 David Craneo down there?  
24          A.     Yes, sir, we did.  
25          Q.     Did you shoot David Craneo then in Utah?

1 A No, I did not.  
2 Q Were you present when he was shot?  
3 A Yes, I was.  
4 Q Did you get -- was this a contract killing?  
5 A It was an ordered killing.  
6 Q Did you get any money for that?  
7 A No, I didn't.  
8 Q You testified that after you went to Mexico that  
9 you were involved in two more deaths; one at Aurora, Colorado,  
10 and one at Salt Lake City, Utah. Can you tell me when those  
11 deaths occurred?  
12 A Sometime in '74.  
13 Q In '74?  
14 A Yes, sir, I think.  
15 Q Directing your attention to the one in Aurora,  
16 Colorado, was that a contract killing?  
17 A Yes, it was.  
18 Q And did you take the contract?  
19 A Yes, I did.  
20 Q And you performed the contract by killing him, then?  
21 A Yes, I did.  
22 Q And what was his name?  
23 A I'm not certain of his name.  
24 Q And how much money did you receive for this?  
25 A I'm not sure of how much money I received.



1 Q Did you receive some money?  
2 A Yes, I did.  
3 Q Did you receive as much as \$100?  
4 A Quite a bit more than that.  
5 Q Did you receive \$5,000, as much as ---  
6 A Possibly that much.  
7 Q Direct your attention to the killing you performed,  
8 then, in Salt Lake City, Utah. I wish to ask you if that was  
9 a contract killing.  
10 A Yes, it was.  
11 Q And did you take the contract and carry it out?  
12 A Yes, I did.  
13 Q How much money did you receive for that one?  
14 A I don't really recall.  
15 Q Did you receive as much as \$5,000 for that one?  
16 A Possibly.  
17 Q Would you say probably?  
18 A No, I would not.  
19 Q But, possibly \$5,000?  
20 A Yes, sir. I don't recall.  
21 Q Now, you killed Red up in Jackson, Wyoming at a  
22 dude ranch; is this correct?  
23 A Yes, sir.  
24 Q Now, was that a contract killing?  
25 A It was an ordered killing and personal reasons.

1 Q What do you mean "an ordered killing for personal  
2 reasons"?

3 A I said I had my own personal reasons, but it was  
4 an ordered killing from National Council.

5 Q How much did you get for that one?

6 A Nothing.

7 Q Do I understand you to say that if you got a  
8 contract on someone and, then, you had what you considered to  
9 be a personal reason then you would kill him for nothing and  
10 wouldn't cost the national organization anything for that  
11 kind of a killing?

12 A No, that's not right.

13 Q Well, would you explain, then, what you mean?

14 A If National Council ordered the contract killing,  
15 unless it's an open contract with money being paid, if you are  
16 ordered to do it, you do it whether you want to or not.

17 Q So this was a free one?

18 A I wouldn't call it "free".

19 Q Did you get paid for it?

20 A No, I didn't.

21 Q Did you get anything other than money for it?

22 A Personal satisfaction.

23 Q Okay. Now, when you shot Waco, was that a contract  
24 killing?

25 A No, it wasn't.

1 Q And what did you get out of shooting him?  
2 A Nothing.  
3 Q Personal satisfaction?  
4 A I guess you could say so, yes.  
5 Q When you killed Billy Dean over in Portland, was  
6 that a contract killing?  
7 A No, it was not.  
8 Q And what did you get out of that one?  
9 A Nothing.  
10 Q Now, Mr. Creech, you said that you had started a  
11 manuscript of your life's story; is this correct?  
12 A Yes, sir.  
13 Q And I think in answer to one of Mr. Robinson's  
14 questions you said you had written that to help others, is  
15 that right?  
16 A I believe I said something to that effect.  
17 Q Then you also said that parts of it were not  
18 correct?  
19 A That's right.  
20 Q How do you expect the jury to believe you now,  
21 today?  
22 MR. ROBINSON: Objection to the form of the question,  
23 Your Honor.  
24 THE COURT: Sustained.  
25 Q BY MR. REMAKLUS: When you were over in Portland,

1 when you killed Billy Dean, about when was that?

2 A. In September or August of 1974.

3 Q. Now, about that same time did you go to Salem and  
4 commit a murder?

5 A. I went to Salem but I didn't commit a murder.

6 Q. Do you know who killed Jane Ramsamoog?

7 A. Yes, I do.

8 Q. And who was that?

9 A. I will not say at this time.

10 Q. When was Miss or Mrs. Ramsamoog killed?

11 A. I think August 17th. I'm not sure.

12 Q. Were you present?

13 A. Yes, I was.

14 Q. And the killing was performed in your presence?

15 A. Not right in my presence.

16 Q. Where was it performed?

17 A. She was killed in a storeroom of the grocery store.

18 Q. Did she work in the grocery store?

19 A. Yes, she did.

20 Q. And was the store being robbed at the time she was  
21 killed?

22 A. I had taken the money from the cash register while  
23 this person that was with me was in the back with her.

24 Q. So, you were a participant with this other person  
25 in the robbery; is this correct?

1 A. Yes.

2 Q Who was the other person?

3 A. I won't say.

4 MR. REMAKLUS: Your Honor, would you instruct the

5 witness to answer?

6 THE COURT: Well, I think he declined to answer also

7 on direct also. I'm not going to direct him to answer.

8 Q BY MR. REMAKLUS: Was Linda Crandall with you

9 upon that occasion?

10 A. Yes, sir.

11 Q Now, turning to the Gordon Stanton killing down in

12 Las Vegas, I think you said he was a union organizer; is that

13 correct?

14 A. Yes, sir.

15 Q Didn't you -- I think you said that this was a

16 contract killing?

17 A. Yes, sir.

18 Q Did you receive money for that?

19 A. Yes, sir.

20 Q How much?

21 A. I don't remember.

22 Q Could it have been as much as \$10,000?

23 A. Yes, it could have.

24 Q Could it have been over that?

25 A. No.

1 Q Now, didn't you tell Bud Mason and Chuck Palmer  
2 that Gordon Stanton was going to drive to Montana because his  
3 mother was having -- going to have open heart surgery?

4 A I might have told him that.

5 Q And didn't you also tell Sheriff Palmer and  
6 Mr. Mason that you wanted to travel north so you bummed a ride  
7 with Mr. Stanton?

8 A I don't think I said that.

9 Q Didn't you further tell Mr. Mason and  
10 Sheriff Palmer that you were both intoxicated and that you  
11 were stopped by the Nevada State Police while -- for driving  
12 on the wrong side of the road?

13 A I don't remember saying that either. I remember  
14 saying that we were stopped by the State Police.

15 Q And then didn't you tell them that you shot  
16 Gordon Stanton three times?

17 A Yes, sir, I did.

18 Q Shot him once in the chest when he was on the ground,  
19 didn't you?

20 A When --- yes, sir.

21 Q And he got up to your surprise, didn't he?

22 A Yes, sir, he did.

23 Q And then you shot him in the side, didn't you?

24 A Yes, sir, I did.

25 Q And that knocked him down again?

1           A     Yes, sir.

2           Q     Did he regain his feet the second time?

3           A     He started to.

4           Q     And is that when he said "This is a hell of a way to

5 die"?

6           A     That was after the first shot.

7           Q     And then did you walk around behind him and the

8 third shot was in the back of the head?

9           A     Yes, sir.

10          Q     Now, with reference to Charles Thomas Miller, was

11 this a contract killing?

12          A     He was a backup hit man.

13          Q     Well, did you take a contract to kill him?

14          A     Well, he was going to kill me so I killed him.

15          Q     So, you didn't get any money for that, then?

16          A     No, sir.

17          Q     So, what, the organization lost confidence in you,

18 is that it?

19          A     Not the organization, Peter Simons didn't exactly

20 lose confidence. He's just a cross artist.

21          Q     So, you are to be rubbed out?

22                   Who is -- was Jeannie?

23          A     A friend.

24          Q     Where does she live?

25          A     I don't know.

1 Q Where was she living when you knew her?  
2 A She lived in different places.  
3 Q Where were you living when you knew her?  
4 A Which time?  
5 Q Well, let's say the first time you became acquainted  
6 with her.  
7 A Beaver, Utah.  
8 Q And at the time of the death of Charles Thomas  
9 Miller, did you know Jeannie?  
10 A Yes, I did.  
11 Q Was she present when you killed Mr. Miller?  
12 A Yes, she was.  
13 Q And is she the female who lured him out there so  
14 you could kill him?  
15 A I'd rather not answer that.  
16 Q Well, this was out at the Blue Diamond Mine;  
17 wasn't it?  
18 A Yes, sir.  
19 Q And he was lured out there; wasn't he, by a female?  
20 A Yes, sir.  
21 Q And that's when you finally killed him?  
22 A Yes, sir.  
23 Q I think you said Rick McKinzie was a drug runner?  
24 A Yes, sir.  
25 Q Was this a contract killing?



1           A.     It was an ordered killing.  
2           Q     Is there a difference between a contract killing and  
3     an ordered killing?  
4           A.     Well, there are contracts ordered, contract was  
5     from Council.  
6           Q     Did you get paid for killing Rick McKinzie?  
7           A.     Not on an ordered contract, no, sir.  
8           Q     Those are free to the organization?  
9           A.     I still wouldn't call those "free contracts".  
10          Q     You don't receive any money for it, did you?  
11          A.     No, I didn't.  
12          Q     Did you shoot Waco, then, after you killed  
13     Rick McKinzie?  
14          A.     Yes, I did.  
15          Q     And where did you kill Waco?  
16          A.     About 100 yards down the road from where I killed  
17     Rick.  
18          Q     And this -- both of these were up in Wyoming?  
19          A.     Yes, sir, 20 miles from Baggs, Colorado.  
20          Q     And was Waco a contract deal?  
21          A.     No, sir.  
22          Q     Why did you shoot him?  
23          A.     He was responsible for me killing Rick.  
24          Q     I think the next thing you testified that you shot  
25     three Mexicans down in New Mexico because they talked Spanish

1 and you couldn't understand them; is that correct?

2 A. Yes, sir.

3 Q And then -- were those contract killings?

4 A. No, sir.

5 Q So you were not paid for those?

6 A. No, sir.

7 Q Now, with reference to the three Mexicans, did

8 Bud Mason go down there with you to look for bodies?

9 A. Yes, sir, I did.

10 Q Did you find anything?

11 A. No, we didn't.

12 Q And were you there when the search was made?

13 A. Yes, sir, I was.

14 Q Was it a pretty careful search?

15 A. Yes, sir, it was.

16 Q Was there a building that had fallen down over the

17 place where you said you buried these people?

18 A. There were some boards over their place.

19 Q So, it was kind of protected, is that right?

20 A. Yes, sir.

21 Q And still nothing was found?

22 A. No, sir.

23 MR. ROBINSON: Your Honor, may we request a short

24 recess?

25 THE COURT: We'll take a ten-minute recess, ladies and

1 gentlemen. If you will remember the admonition, don't discuss  
2 the case and keep your minds open.

3 (Recess taken.)

4 THE COURT: Show the jurors are all present.

5 Go ahead.

6 MR. REMAKLUS: Thank you.

7 Q BY MR. REMAKLUS: Then you testified that you  
8 killed Tom Sage in October of 1974 near Barstow, California;  
9 did you not?

10 A Jerry.

11 Q And was Tom Sage known as Jerry?

12 A I later thought that he was Tom Sage.

13 MR. REMAKLUS: Would you please mark State's Exhibit 66.

14 (State's Exhibit No. 66 marked for identification.)

15 MR. REMAKLUS: May I approach the witness, Your Honor?

16 THE COURT: Yes.

17 Q BY MR. REMAKLUS: Handing you what's been marked  
18 for identification as State's Exhibit No. 66, would you look  
19 at this photograph, please.

20 A (Witness complied.)

21 Q Is that Jerry?

22 A No, it's not.

23 Q Is that Tom Sage?

24 A Yes, Tom Sage, yes, it is.

25 Q And is he the one that you said you killed over in

1 Barstow?

2 A. I said that I killed Jerry and I was later shown  
3 that photograph by police officers and I identified it as being  
4 Jerry and I later learned that this guy's name was Tom Sage.

5 Q. This is a picture of the man you shot over in  
6 Barstow?

7 A. At that time I thought it was, but that guy there  
8 is alive.

9 Q. But, you told him you had shot him one time -- one  
10 time, you said that you shot this man and now you say he's  
11 alive?

12 A. I said I thought it was him.

13 Q. But now you don't think it is this man?

14 A. I wasn't for sure then.

15 Q. Are you for sure now?

16 A. No, I'm not.

17 MR. REMAKLUS: I'm going to offer State's Exhibit 66,  
18 Your Honor.

19 MR. ROBINSON: No objection.

20 THE COURT: Sixty-six will be admitted.

21 (State's Exhibit No. 66 admitted into evidence.)

22 Q. BY MR. REMAKLUS: So, you didn't get any money,  
23 then, for killing John Boy?

24 A. No.

25 Q. And was Terry, the first newscaster, a contract?

1 A I don't recall.  
2 Q And was Jeff Ozzio a contract?  
3 A No.  
4 Q And who was the second newscaster?  
5 A What was his name?  
6 Q Yes.  
7 A I don't know.  
8 Q Was he called "Carey"?  
9 A Yes.  
10 Q And was that a contract killing?  
11 A Yes.  
12 Q How much did you get?  
13 A Nothing.  
14 Q Okay. Now, what about Walter? Is it "Henshaw"  
15 or "Hershaw"?  
16 A Hershaw, I believe.  
17 Q And you say you killed him down at The Trading Post  
18 Bar, is that right?  
19 A Yes, sir.  
20 Q That's over in Missoula?  
21 A Yes, sir.  
22 Q Is that a contract killing?  
23 A No, sir.  
24 Q That was because he was beating you up, is that  
25 right?

1 A. That and other reasons.

2 Q What other reasons?

3 A. That he had been involved with my wife, Tomisene.

4 Q Okay. Do you remember a Detective Solarzano from

5 Los Angeles that you talked to in Boise, Idaho?

6 A. Yes, I do.

7 Q Did you tell him that there were about 100 bodies

8 buried down at the McCoy Ranch in California?

9 A. I don't believe I told him there was that many

10 bodies buried there.

11 Q How many bodies did you tell him were there?

12 A. I'm not sure.

13 Q Would you say more than 50?

14 A. I'm not sure.

15 Q But you do recall that conversation?

16 A. I do recall talking to him.

17 MR. REMAKLUS: Your Honor, I have an exhibit to offer

18 which is a letter. However, the letter has some extraneous

19 material on it and I have a photocopy and would wish to have

20 the photocopy marked so the jury would not be misled.

21 Would that be agreeable?

22 THE COURT: All right, yes.

23 (State's Exhibit No. 67 marked for identification.)

24 Q BY MR. REMAKLUS: Mr. Creech, handing you what's

25 been marked as State's Exhibit No. 67 for identification,

1 would you look at that, please.

2 Does that appear to be a letter, or photocopy of  
3 a letter that you wrote to Lynn?

4 A. Yes, it is.

5 Q. Is that Lynn Plowman?

6 A. Yes, sir.

7 Q. And is this -- you were soliciting funds in this  
8 letter?

9 MR. ROBINSON: Objection, Your Honor, if it's offered  
10 the matter will speak for itself.

11 THE COURT: Sustained.

12 Q. BY MR. REMAKLUS: Directing your attention to the  
13 date on the letter, would you tell us when it was written?

14 A. 8-5-75.

15 MR. REMAKLUS: Thank you. I'd offer State's 67.

16 MR. ROBINSON: I have no objection.

17 THE COURT: Sixty-seven will be admitted.

18 (State's Exhibit No. 67 admitted into evidence.)

19 Q. BY MR. REMAKLUS: Now, does the Exhibit -- handing  
20 you what's been admitted into evidence as State's Exhibit 67,  
21 you state in there that there had been a kidnapping.

22 A. I can't find that part in here.

23 Q. How about the boating accident?

24 A. I see that part.

25 Q. And, now, this is Emma and your daughter mentioned

1 in this letter are the ones that you testified to that --  
2 yesterday, that had been kidnapped?

3 MR. ROBINSON: Objection, Your Honor, it's a misstatement  
4 of a testimony. There was no testimony on direct examination  
5 in that regard.

6 THE COURT: Yes, I'm going to sustain the objection.

7 MR. REMAKLUS: Thank you, Your Honor. May I have just  
8 a moment?

9 (Brief delay.)

10 Q BY MR. REMAKLUS: This letter, then, does state  
11 that your wife and daughter are being held by the organization  
12 until financial demands are met, till you pay them \$5,000;  
13 doesn't it?

14 A Would you say that again, sir.

15 Q Look at the beginning of the third paragraph.  
16 That's what it says; is it not?

17 A Yes, sir.

18 Q And that you cannot let your attorney know?

19 A Yes, sir.

20 Q Mr. Creech, directing your attention to the third  
21 day of November, 1964, you stated that you were in Lewiston,  
22 Idaho; is this correct?

23 A Not in 1964.

24 Q Excuse me, 1974?

25 A Yes, sir.



1 Q Thank you. And you further stated that you left  
2 Lewiston, Idaho on that day in company with Carol Spaulding?  
3 A Yes, sir.  
4 Q And that you met Tom Arnold and Wayne Bradford on  
5 that day?  
6 A Yes, sir.  
7 Q Now, would you explain to me exactly where you  
8 say that you met them?  
9 A By the Nezperce Indian Reservation, the turnoff  
10 that goes there on Route 95.  
11 Q And were you out on the highway hitchhiking?  
12 A No, we was not.  
13 Q Were you with Carol Spaulding at that time?  
14 A Yes, sir.  
15 Q And where did you go then from -- when you met --  
16 how did you get from Lewiston out to "Spaulding"?  
17 A From Lewiston to where?  
18 Q Well, out to what you call the Nezperce Indian  
19 Reservation.  
20 A By car.  
21 Q And what car was that?  
22 A '69 Roadrunner.  
23 Q And did you then get in the car with Bradford and  
24 Arnold?  
25 A No, sir.

1 Q About what time of day did you depart from where  
2 you met with Arnold and Bradford and continue south on  
3 State Highway 95?

4 A Around 6:00 or 6:30, I believe.

5 Q And what time did you arrive in Grangeville?

6 A I'm not certain.

7 Q I'm sorry, I couldn't hear.

8 A I'm not certain.

9 Q Did you go to the Texaco station in Grangeville?

10 A In the Roadrunner, yes.

11 Q And was that after dark?

12 A Yes, sir.

13 Q And was the witness, John Stewart, working there  
14 on that night?

15 A I'm not sure.

16 Q And what did you do in Grangeville on that night?

17 A Bradford and Arnold and Carol and Dan and the  
18 other female stopped to sell that battery charger and to get  
19 gas and buy beer.

20 Q Was the battery charger sold?

21 A Yes, sir, I believe it was.

22 Q How much money was obtained for it?

23 A \$10, I think.

24 Q How much money did you have with you that night?

25 A I'm not certain on how much money I had.

1 Q And did you sell a coat that night?  
2 A No, sir.  
3 Q And who sold a coat that night?  
4 A I'm not sure.  
5 Q Do you know how much money was obtained for the  
6 coat?  
7 A No, I don't.  
8 Q Do you know where it was sold?  
9 A I think in Whitebird.  
10 Q And that's south of Lewiston, then, away from --  
11 I mean south of Grangeville away from Lewiston; is it not?  
12 A Whitebird?  
13 Q Yes.  
14 A I'm not sure. I'm not familiar with that area too  
15 much.  
16 Q You went through Whitebird after you were  
17 at Grangeville, didn't you?  
18 A I don't know.  
19 Q Do you know whether the coat was -- wasn't the  
20 coat sold after the battery charger was sold?  
21 A I think so.  
22 Q I believe you testified that you drove on through  
23 McCall, Idaho to Cascade, Idaho, that night; is that correct?  
24 A Would you repeat that, sir?  
25 Q I think you testified that you drove on south

1 through McCall, Idaho to Cascade, Idaho and then turned around  
2 and went back to the death scene; is that correct?

3 A. From Donnelly, I think.

4 Q. Pardon?

5 A. You mean from where the killings happened?

6 Q. Yes.

7 A. Yes, I drove on and turned around and came back.

8 Q. Now, with reference to the location of  
9 Donnelly, Idaho and Cascade, Idaho; do you know where the deaths  
10 occurred?

11 A. Yes, sir.

12 Q. That's about one mile, one or one and one-tenth  
13 miles south of Donnelly, Idaho?

14 A. I know it was at a junction.

15 Q. Would you agree, then, that Cascade is on south of  
16 that point, the junction?

17 A. Would I agree?

18 Q. Yes.

19 A. Yes, sir.

20 Q. Now, is it your testimony that you drove through  
21 Donnelly, passed the death scene to Cascade and then returned  
22 to the death scene?

23 A. Yes, sir.

24 Q. And what was your reason for returning to that  
25 scene?

1 A To find out why they had stopped.  
2 Q Are you telling me that they had stopped there  
3 before and you knew where they had stopped?  
4 A Yes, sir.  
5 Q So when you turned around in Cascade, you went  
6 right back to the death scene?  
7 A Yes, sir.  
8 Q Handing you what's been marked -- or admitted into  
9 evidence as State's Exhibit 28-A, is that the vehicle that  
10 you saw at the death scene?  
11 A Yes, sir, it is.  
12 Q And have you ever been inside that vehicle?  
13 A Yes, I have.  
14 Q And when was that?  
15 A When I drove it from where Arnold and Bradford  
16 was killed down below Cougar Mountain Lodge.  
17 Q Handing you what's been admitted into evidence as  
18 Plaintiff's Exhibit 1-J, would you agree that that is an  
19 accurate representation of the death scene that night?  
20 A Yes.  
21 Q Handing you what's been admitted into evidence as  
22 Plaintiff's Exhibit 1-A, would you look at that and tell me  
23 who that is?  
24 A I believe it's Wayne Bradford.  
25 Q Did you see him there on the night in question

1       like that?

2               A.     Like this?

3               Q.     Yes.

4               A.     No, sir.

5               Q.     Handing you what's been marked in evidence as  
6       Plaintiff's Exhibit 1-G, do you know who that is?

7               A.     Yes, sir.

8               Q.     Who is that?

9               A.     That's Tom Arnold.

10              Q.     Now, is it your testimony that the bodies had  
11       already been removed from the car and covered up when you  
12       arrived at the death scene?

13              A.     Yes, sir.

14              Q.     How long were you at the death scene, Mr. Creech?

15              A.     I'm not sure.

16              Q.     Did you make an estimate? Was it dark when you  
17       left there?

18              A.     Yeah, it was dark.

19              Q.     Now, when you left the death scene which way did  
20       you travel?

21              A.     South.

22              Q.     And who was with you?

23              A.     Carol.

24              Q.     And you were in the green Buick that I showed you  
25       the picture of?

1           A     Yes, sir.

2           Q     And you say that someone else was at the death

3     scene besides you and Carol?

4           A     Yes, sir.

5           Q     And who was that?

6           A     Dan and another female.

7           Q     And who was the other female?

8           A     I won't answer that.

9           MR. REMAKLUS: Your Honor, we're to the scene of this

10     crime and I think this is relevant information and that the

11     witness should be required to answer.

12           THE COURT: Yes, I don't think -- I think you've waived

13     your privilege as to these facts.

14           Q     BY MR. REMAKLUS: Who was the other female?

15     Do you refuse to answer?

16           A     If I have to answer, I guess I have to.

17           MR. REMAKLUS: Would you so advise the witness, please,

18     Your Honor?

19           THE COURT: Yes, I'll instruct you to answer,

20     Mr. Creech.

21           THE WITNESS: Kathy Spaulding.

22           Q     BY MR. REMAKLUS: Do you know Kathy Spaulding?

23           A     Yes, sir.

24           Q     And who is she?

25           A     Carol's sister.

1 Q Do you know how old Kathy is?  
2 A She's 16.  
3 Q Okay. We're there at the death scene, now, and  
4 you say that you and Carol went south in the old Buick.  
5 Now, how had you been traveling? You said you had  
6 been -- that you were not in the Buick?  
7 A Before?  
8 Q Yes.  
9 A Would you say that question again?  
10 Q In what vehicle did you -- do you claim that you  
11 arrived at the death scene?  
12 A In the '69 Roadrunner.  
13 Q And would you describe that car for me?  
14 A '69 Roadrunner, 383, green two-door.  
15 Q Green two-door?  
16 A Yes.  
17 Q And was it your car?  
18 A No, sir.  
19 Q Whose car was it?  
20 A It was a hot car.  
21 Q And where did you get it?  
22 A It was brought to me, to the Fry Hotel on the  
23 afternoon that Carol and myself left Mr. Schreiber and  
24 Mrs. Spaulding's house.  
25 Q What kind of plates did it have on it?



1 A. I'm not sure at this time.  
2 Q. Now, what happened to that car at the scene of the  
3 crime?  
4 A. Dan took it back to Clarkston, Washington.  
5 Q. And anyone go with him?  
6 A. Yes, sir.  
7 Q. Who was that?  
8 A. The other female.  
9 Q. And do you mean Kathy Spaulding?  
10 A. Yes, sir.  
11 Q. About what time of night was this?  
12 A. I don't know.  
13 Q. Had you stopped in McCall before going -- at  
14 McCall, Idaho, before going on south past the death scene?  
15 A. I'm not sure where McCall is at.  
16 Q. Mr. Creech, was it dark when you left Grangeville  
17 that evening?  
18 A. Yes, sir.  
19 Q. And it was still dark when you were at the death  
20 scene?  
21 A. Yes, sir.  
22 Q. And, as I understand it, you had traveled from  
23 Grangeville, Donnelly, Cascade back to the death scene?  
24 A. Yes, sir.  
25 Q. And it was dark during all this time; was it not?

1 A Yes, sir.  
2 Q Now, about how long were you at the death scene?  
3 A I don't know.  
4 Q Now, you say you and Carol left the death scene and  
5 drove south?  
6 A Yes, sir.  
7 Q And you stopped in Cascade, is that right?  
8 A Yes, sir.  
9 Q That's where you tried to hot wire the car?  
10 A Yes, sir.  
11 Q How long do you think you were there?  
12 A In Cascade?  
13 Q Yes.  
14 A Oh, probably about a half hour.  
15 Q And then where did you go?  
16 A We went -- we drove to some kind of house or  
17 something that we stopped at where I wanted to rest. We  
18 stayed there for just a few minutes and drove on to Cougar  
19 Mountain Lodge.  
20 Q Did you park there at Cougar Mountain Lodge there  
21 for most of the night?  
22 A The entire rest of the night.  
23 Q Did you run out of gas a few miles below there on  
24 State Route 55?  
25 A Yes, sir, we did.

1 Q Now, by the time you ran out of gas, was it getting  
2 daylight?  
3 A It was daylight when we left the lodge.  
4 Q Had it just broken day?  
5 A Yes, sir.  
6 Q How long do you think you had been there?  
7 A I don't know.  
8 Q You and "Kathy" hitchhiked on into Boise; did you  
9 not?  
10 A Not Kathy.  
11 Q Excuse me, you and Carol?  
12 A Yes, sir.  
13 Q Thank you. And you eventually met with Jim Marsh?  
14 A Yes, sir.  
15 Q And when you were in Boise, then you arrived there  
16 on November -- what day in November did you get there?  
17 A The second day.  
18 Q So -- while you were in Boise with Jim Marsh, you  
19 and he robbed a 7-Eleven store; did you not?  
20 A Yes, sir.  
21 Q And that was an armed robbery; wasn't it?  
22 A Yes, sir, it was.  
23 Q You held the gun, didn't you?  
24 A One of them.  
25 Q Mr. Creech, handing you what's been marked for

1 identification as State's Exhibit 22, is that the gun you used  
2 that night?

3 A. Yes, sir.

4 Q. Who was the clerk there that you robbed?

5 A. Joe Carl Adams.

6 Q. Did you steal his identification?

7 A. Yes, sir, I did.

8 Q. Is that the identification that you first used at  
9 Glenns Ferry when you were arrested?

10 A. I didn't use it, they took it out of my pocket and  
11 assumed that's who I was.

12 Q. Now, when you and Carol -- you were taken out to  
13 the rest stop on the Interstate where you got a ride with  
14 Steven Paul Rivers; is this correct?

15 A. Yes, sir.

16 Q. And did you travel immediately with Mr. Rivers to  
17 Glenns Ferry where you were arrested?

18 A. Well, I think there was a few stops in between but  
19 I don't know where at. I was sort of sleeping.

20 Q. Um-hmm. Do you know what time you got to  
21 Glenns Ferry that night?

22 A. No, I don't.

23 Q. You remember when Carol and Steven Rivers got out  
24 and went in the cafe there at Glenns Ferry?

25 A. Yes, sir.

1 Q Did they bring you some coffee?  
2 A Yes, sir.  
3 Q You recall being stopped by Officer Hill?  
4 A Yes, sir.  
5 Q Officer Menzik was there?  
6 A Yes, sir.  
7 Q And then you went down to the -- they took you down  
8 to the Glenns Ferry Police Station; didn't they?  
9 A Took me to just a little small room somewhere.  
10 Q Do you remember how long you were there and who  
11 was present?  
12 A I think that's where Detective Freeman showed up.  
13 Q And Menzik was there and Freeman showed up and also  
14 Officer Hill was still there?  
15 A I'm not sure who all was there at that time.  
16 Q Then when you went -- when you were transported  
17 by the officers up to Mountain Home, you rode in the back seat  
18 of the car with Carol, no one else was in the back seat; isn't  
19 that right?  
20 A No, sir.  
21 Q Who else was in the back seat?  
22 A I believe Steven Paul Rivers was.  
23 Q Is it your testimony that Steven Paul Rivers rode  
24 from Glenns Ferry, Idaho to Mountain Home, Idaho with you and  
25 Carol?

1           A     Well, I wouldn't say for sure, but he was with us  
2 when we was transported from one of the stations to a different  
3 station.  
4           Q     This was after dark; wasn't it?  
5           A     Yes, sir.  
6           Q     And then you arrived at the -- eventually at the  
7 Mountain Home Police Department where you eventually met  
8 Investigator Wesley Woodall?  
9           A     Yes, sir.  
10          Q     Now, handing you what's been admitted into  
11 evidence as State's Exhibit 56, is this your voluntary  
12 statement that you made to Officer Woodall there at  
13 Mountain Home?  
14          A     I think so.  
15          Q     Those are your signatures on the pages, aren't  
16 they?  
17          A     I write like that sometimes, yes.  
18          Q     Now, when this statement was taken from you it  
19 was about 2:00 in the afternoon of the day that you were  
20 arrested; is this correct?  
21          A     I'm not sure what time it was.  
22          Q     When you went into the office there at the  
23 Mountain Home Police Department to make this statement there was  
24 you, Officer Woodall, Officer Maxwell for part of the time, and  
25 Officer Hill for part of the time, is that right?

1 A. Yes, sir.

2 Q. And you had already been read your Miranda

3 Warnings and signed them, hadn't you?

4 A. Is that this top thing here?

5 Q. Yes, Exhibit 55.

6 A. I had been read my rights but I don't remember

7 signing that first piece of paper there.

8 Q. Would you look at your signature on Exhibit 55.

9 A. (Witness complied.)

10 Q. That is your signature; isn't it?

11 A. I would think so.

12 Q. All right. Now, turning to Exhibit 56, now,

13 Mr. Woodall stated to you on that day that "We are

14 investigating a double murder" and didn't you then say, as it

15 says here, "I did it, I did it, I did it"?

16 A. I think so.

17 Q. Was the statement, as Mr. Woodall would ask you

18 things, didn't you just start to talk and he would ask you to

19 slow down and he would try to catch up with you?

20 A. I believe he only asked me about two questions

21 and I told the rest of it by myself.

22 Q. Now, directing your attention to the statement

23 where there are lines and initials, are those your initials?

24 A. They appear to be.

25 Q. Now, after you finished taking this statement --

1 or after Officer Woodall finished taking the statement, you and  
2 he went over this page-by-page; did you not?

3 A I believe so.

4 Q Now, it was after the statement was completed --  
5 directing your attention to the first page where there is a  
6 line drawn and the initials "TEC", you placed those initials  
7 on there after this statement was finished; didn't you?

8 A I'm not sure.

9 Q Didn't Officer Woodall tell you that he was going  
10 to draw the line so nothing else would be filled in?

11 A I believe he did, but I'm not sure when the lines  
12 were drawn in there.

13 Q Now, going down to the second slash mark, right  
14 after it says "I killed those two guys, I need help". Then  
15 there is a slash mark and a "TEC". Those are your initials,  
16 are they not?

17 A They appear to be.

18 Q And you put them on there; didn't you?

19 A I imagine so.

20 Q Okay. The next line we went to -- and there's a  
21 word crossed out and the initials "TEC" appear above that.  
22 Those were placed by you on that sheet? You did write them  
23 there; didn't you?

24 A The initials?

25 Q Yes.



1           A.    I think so.

2           Q.    Now, proceeding down towards the bottom of the

3 page, the fourth time the initials "TEC" appear above a slanting

4 line. You also put those initials on, didn't you?

5           A.    I think so.

6           Q.    Now, the next line, "We stopped by a -- " and

7 there's some marks and the initials "TEC" are above those marks.

8 Those are your initials placed there by you on November 8th,

9 1974, aren't they?

10          A.    They appear to be.

11          Q.    Now, going down to the next -- or to the bottom of

12 the page, that is your signature; is it not?

13          A.    I write like that sometimes, yes.

14          Q.    And underneath where it says, "Page 1 of 7" you

15 put your initials under that -- when the -- right after the

16 statement was taken too, didn't you?

17          A.    I think so.

18          Q.    Now, going to the next -- to Page No. 2 and the

19 printed portion at the top there's a slanting line with the

20 initials "TEC" and you wrote those initials on there at that

21 time, didn't you?

22          A.    I think so.

23          Q.    And another slanting line -- printed material and

24 another set of initials which you wrote on there, "TEC"; is

25 that correct?

1 A. I think so.

2 Q. Now, Mr. Woodall told you to go over this  
3 carefully and make any corrections that you wanted to, didn't  
4 he?

5 A. I believe he did.

6 Q. I want to direct your attention to the next to the  
7 last line, the handprinted line where it says, starts "Shot"  
8 and it appears to be the word "Wayne" marked out and the  
9 word "Tom" written above it. Do you see that?

10 A. Yes, sir.

11 Q. You initialed that with the initials "TEC"; didn't  
12 you?

13 A. I believe so.

14 Q. Now, going on, "I shot him" -- and something  
15 marked out and your initials put in there by you at that time;  
16 weren't they?

17 A. I believe so.

18 Q. So, it now reads "I shot him one time" and it  
19 appears that the "S" on "times" was marked and you initialed  
20 that at that time; didn't you?

21 A. I think so.

22 Q. Now, going on you say "Wayne had a knife and came  
23 at me I hit him with the end of the gun. He fell back and I  
24 shot him" -- now, that is interlineated "three times"; isn't  
25 it, so it says "I shot him three times" doesn't that appear

1 in your statement?

2 A. Yes, sir.

3 Q. And right above that are your initials that you put  
4 there when that statement was taken?

5 A. It appears to be.

6 Q. Now, as a matter of fact, Mr. Creech, you and  
7 Carol just like this said, you shot Tom Arnold first right in  
8 the temple up at the scene of the crime.

9 A. Are you asking me if I did that?

10 Q. Yes.

11 A. No, I did not.

12 Q. Isn't it a fact that after you shot him that  
13 Wayne Bradford raised up out of the back seat and you shot him  
14 in the face three times?

15 A. No, sir.

16 Q. Proceeding on down with your statement, to the  
17 bottom of the page, your signature appears there on Page 3?

18 A. It appears to be.

19 Q. And also that's your signature on Page 2; is it not,  
20 on the very bottom of it?

21 A. It appears to be.

22 Q. And directing your attention over to Page 4, the  
23 slash mark through the top and the initials "TEC". That,  
24 again, is your initials?

25 A. It appears to be.

1 Q And you signed Page 4 at the bottom? That is your  
2 signature; isn't it?

3 A It's my signature, yes.

4 Q Page 5 you also checked and initialed the top  
5 part of the printed portion that was crossed out, is that  
6 right?

7 A I think so.

8 Q And there are three -- four other places on that --  
9 five other places where you have initialed with the initials  
10 "TEC" placed on there by you on the day in question, is that  
11 right?

12 A I think so.

13 Q You signed Page 5 also; didn't you, Mr. Creech?

14 A I believe so.

15 Q And directing your attention to Page 5 of the  
16 voluntary statement you initialed it where the printed  
17 material was crossed out, didn't you?

18 A I believe so.

19 Q You also signed the bottom of that sheet, didn't  
20 you?

21 A I believe so.

22 Q And directing your attention to Page 7 and the  
23 crossed out portion there, the large crossed out, you initialed  
24 that in your handwriting, didn't you?

25 A I believe so.

1 Q And you also signed Page 7 with your signature?  
2 A I believe so.  
3 MR. REMAKLUS: Thank you.  
4 MR. ROBINSON: May we have a short recess, Your Honor?  
5 THE COURT: We'll take a ten-minute recess if you  
6 will remember the admonition, don't discuss the case and  
7 keep your minds open.  
8 (Recess taken.)  
9 THE COURT: Show the jurors are all present.  
10 MR. REMAKLUS: May we proceed, Your Honor?  
11 THE COURT: Yes.  
12 MR. REMAKLUS: Thank you.  
13 Q BY MR. REMAKLUS: Mr. Creech, you testified as  
14 to the plane crash and you said on many occasions that you  
15 couldn't remember the incident very well; isn't that correct?  
16 A Yes, sir.  
17 MR. REMAKLUS: I'd like to have State's Exhibit 68  
18 marked.  
19 (State's Exhibit No. 68 marked for identification.)  
20 Q BY MR. REMAKLUS: Handing you what's been marked  
21 for identification as State's Exhibit 68, is this a poem that  
22 you wrote about the plane ride and crash?  
23 A Yes, sir.  
24 Q When did you write it?  
25 A When did I write it?

1 Q Um-hmm.  
2 A Sometime after the plane crash.  
3 Q And then what did you do with it after you had  
4 written it?  
5 A I gave a copy to Sheriff Palmer.  
6 Q Is that the one?  
7 A Yes, this is the original copy.  
8 Q And that describes the crash, doesn't it?  
9 A Yes, sir.  
10 MR. REMAKLUS: I would offer State's Exhibit 68,  
11 Your Honor.  
12 MR. ROBINSON: No objection, Your Honor.  
13 THE COURT: Sixty-eight will be admitted.  
14 (State's Exhibit No. 68 admitted into evidence.)  
15 MR. REMAKLUS: The jury may read this for themselves,  
16 Your Honor. I have no desire to read it at this point.  
17 Q BY MR. REMAKLUS: Mr. Creech, you wrote a letter  
18 to Gene Hilby in an attempt to influence his testimony in this  
19 case, haven't you?  
20 MR. ROBINSON: Objection to the form of the question,  
21 Your Honor.  
22 THE COURT: Yes, I'll sustain the objection. It assumes  
23 facts not in evidence.  
24 Q BY MR. REMAKLUS: Since the trial started and  
25 after Mr. Hilby arrived in the courtroom, you wrote him a letter

1 about his testimony, didn't you?

2 MR. ROBINSON: Same objection, Your Honor, form of the  
3 question and also assuming facts not in evidence.

4 THE COURT: Overruled.

5 THE WITNESS: I wrote Mr. Hilby a letter but not trying  
6 to influence his testimony. I do not even think he can  
7 testify in this trial.

8 Q. BY MR. REMAKLUS: And when did you write the letter?

9 A. Couple days ago.

10 MR. REMAKLUS: I'd like to have you mark State's  
11 Exhibit 69.

12 (State's Exhibit No. 69 marked for identification.)

13 Q. BY MR. REMAKLUS: Handing you what's been marked  
14 for identification as Plaintiff's Exhibit 69, would you state  
15 whether or not that's the letter that you wrote to Gene Hilby?

16 A. This is the letter I wrote Mr. Hilby, yes.

17 MR. REMAKLUS: I would offer State's 69.

18 MR. ROBINSON: No objection, Your Honor.

19 THE COURT: Sixty-nine will be admitted.

20 (State's Exhibit No. 69 admitted into evidence.)

21 MR. REMAKLUS: The jury may read this for themselves,  
22 Your Honor.

23 Q. BY MR. REMAKLUS: Mr. Creech, you wrote  
24 Carol Spaulding a letter since this trial has started also,  
25 haven't you?

1 A. Yes, sir, I have.

2 Q. And what did you say in that letter?

3 A. I told her why didn't she tell the truth since she  
4 was granted immunity from the State.

5 Q. And you asked her to make the same statement, or  
6 tell the same story that you have told here about Danny and  
7 her sister; didn't you?

8 MR. ROBINSON: Objection to the form of the question,  
9 Your Honor.

10 THE COURT: Sustained.

11 Q. BY MR. REMAKLUS: What did you say in the letter?

12 A. You want me to tell you what I wrote in the letter?

13 Q. Yes.

14 A. I asked her if she would come forth with the truth  
15 since the State had granted her immunity from prosecution. I  
16 didn't mention her sister in a letter. I put in the letter  
17 Dan, which is her ex-boyfriend, and his "old lady".

18 Q. And what else did you say in the letter?

19 A. I asked her why she had told -- or made the  
20 statement that I was going to shoot her, or something, when  
21 she said she ran away from the car.

22 Q. What else?

23 A. I'm not sure what else.

24 Q. May I refresh your memory?

25 A. Yes, sir.



1 Q Didn't you ask her to say that Danny and the other  
2 female committed the crime?

3 A I didn't tell her that, no. I didn't.

4 Q That was not in the letter?

5 A It was in the letter, I stated to her why didn't  
6 she testify to the truth about the people that was with us.

7 Q Was that written on the same stationery as this  
8 letter to Mr. Hilby?

9 A Yes, sir, it was.

10 MR. REMAKLUS: That's all. Thank you.

11  
12 REDIRECT EXAMINATION

13 BY MR. ROBINSON:

14 Q Tom, on this Paul Shrader circumstance you  
15 testified that there was some money paid to you. Do you  
16 recall your testimony answering the Prosecutor's questions?

17 A Yes, sir.

18 Q All right. And was there a total contract sum of  
19 money for that Shrader involvement?

20 A I don't understand what you are asking.

21 Q How much was the total amount that was supposed  
22 to have been paid?

23 A \$10,000.

24 Q How much were you paid?

25 A Total amount that I completely received over the

1 months that followed was around \$1,500.

2 Q And by whom were you paid?

3 A Peter Simons.

4 Q Tom, what would have happened to you if you failed  
5 to fill an ordered contract by Council?

6 MR. REMAKLUS: I'm going to object to that as calling  
7 for a conclusion of the witness and certainly no foundation has  
8 been laid, Your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: If I failed to complete an ordered contract  
11 from Council I would be -- my colors would have been taken away  
12 and no longer would have been in Council and, I imagine, I  
13 would have had a contract put out on me.

14 MR. ROBINSON: No further questions, Your Honor.

15 MR. REMAKLUS: I have no questions.

16 THE COURT: You may step down.

17 MR. ROBINSON: Call Mr. Schreiber back to the stand,  
18 Your Honor.

19 THE COURT: We will take our noon recess if it's all right  
20 Mr. Robinson. Unless this will be real short, we'll take our  
21 noon recess.

22 MR. ROBINSON: I anticipate it going to be very short,  
23 Your Honor.

24 THE COURT: All right, go ahead, then.  
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WILLIAM SCHREIBER,  
a witness produced on behalf of the Defendant, having been  
previously duly sworn, took the stand and testified as follows:

THE COURT: Mr. Schreiber, you are still under oath.  
Just take the stand.

DIRECT EXAMINATION

BY MR. ROBINSON:

Q Mr. Schreiber, you've previously testified and  
were called by the State to testify; were you not?

A Yes.

Q All right. Now, during the four or five days that  
Tom and Carol were there at your home in Lewiston prior to  
November 3rd, 1974, were there many phone calls that were made  
by Thomas Eugene Creech?

A Two, I think.

Q And what duration were those phone calls? How long  
were they?

A I just don't -- I just never thought -- I paid no  
attention. I suppose five or six minutes, three minutes maybe.

Q Hadn't you previously given testimony, or written  
statements to the law officers regarding those long distance  
calls and the bills?

A No, I never said nothing about the bills. I said --

1 they asked me if I knew his name and I says "No, I don't know  
2 it". But, I said I would have a way to find out if I was a law  
3 officer. I said I would go to the phone company and find from  
4 our phone number and calls went -- wherever they went, back to  
5 Ohio or wherever they were, and that whoever he was supposed to  
6 have called, his brother and, naturally, his name would be the  
7 same as his brother's. So, I said maybe you can get it that  
8 way, I don't know.

9 Q All right. Now, in regard to the gun. How long  
10 prior to your bumping your knee on this pellet gun --

11 A Um-hmm.

12 Q -- had it been that you checked to see whether or  
13 not the State's Exhibits No. 22 and 23 were there?

14 How long before that?

15 A It was that morning, I think. I'm pretty positive  
16 either the morning before or that morning. I actually didn't  
17 check to see if the gun was there so much as I told you about  
18 this envelope with the money in it and that's what I checked.  
19 That's what I was really checking for.

20 Q Checked --

21 A And it was about so far (indicating) from the gun.

22 Well, naturally, when I picked the mattress up and  
23 checked -- or to check for that money, why, I could see the gun.  
24 It wasn't the -- to check the gun that I -- I didn't lift it to  
25 check the gun. It was, more or less, to see if that money was

1 still there.

2 Q And was that the morning of November the 3rd?

3 A Third.

4 Q Or November the 2nd?

5 A Either the 2nd or the 3rd, I'm just not completely  
6 positive that it was the 3rd. It could have been the 2nd but  
7 it wasn't any later than that.

8 Q Do you recall any incident occurring on the 3rd of  
9 November when Carol used that room to change clothes?

10 A I couldn't -- no, I don't -- she might have used  
11 it, but I probably didn't even see her, probably wasn't there.

12 Q Or didn't pay any attention?

13 A Well, I'd be in the other room or I might have been  
14 downtown. I never stayed around there too much. I just had  
15 the room there. I was either out in the yard working, not too  
16 much in the house, or I'd go downtown somewhere, play pool or  
17 something. That's where I was usually at.

18 Q Your relationship between yourself and Miss Spaulding  
19 and Kathy places you in a position of knowing Kathy fairly well;  
20 does it not?

21 A Oh, yes, I have known Kathy since she was, oh, nine  
22 years old, I guess, or ten.

23 Q And is this young lady having a great deal of  
24 difficulty at the present time and since last year?

25 MR. REMAKLUS: I would object to the form of the

1 question. It's vague and indefinite and uncertain.

2 THE COURT: Sustained.

3 Q BY MR. ROBINSON: Mr. Schreiber, do you know whether  
4 or not Kathy is using drugs?

5 A She don't use drugs, I don't think. Now, I'm just  
6 saying this from my own knowledge. She may when I'm not around  
7 or she -- she's downtown with her friends and so forth, she  
8 could be. I don't know, but -- I mean, I personally I've never  
9 seen her use any.

10 Q Does she run around a great deal?

11 A Yes, um-hmm.

12 Q And, Mr. Schreiber, prior to September of 1974, has  
13 Carol Spaulding come to that place with Gene?

14 A Yes, um-hmm.

15 Q On how many different occasions?

16 A Just once.

17 Q And then left making a trip with him?

18 A Yes, they left -- I'm not positive whether it was  
19 the last of July or last of August, you know, I don't pay much  
20 attention to their coming and going, you know. But, I knew she  
21 was there and they came in a car. I can't remember the make  
22 and they pulled up to a Kentucky Fried Chicken deal and the  
23 reverse went out of it so they left it sit there and put  
24 knapsacks on their back when they left and hitchhiked and left  
25 the car sitting.

1 MR. ROBINSON: I have no further questions.

2 THE WITNESS: But, I don't remember.

3 MR. ROBINSON: You may examine.

4

5

CROSS EXAMINATION

6 BY MR. REMAKLUS:

7 Q Gene who, Mr. Schreiber?

8 A I couldn't tell you, sir, only thing I know is  
9 "Gene" and he -- well, after this trouble happened they -- he  
10 came up with another fellow from Los Angeles, they had one of  
11 these little Datsun "S" something, \$6,000, \$7,000, them little  
12 sports cars.

13 Q Um-hmm.

14 A And they wanted to get ahold of Carol or him, they  
15 wanted to know if I could get them in the jail.

16 Q It isn't Gene Creech?

17 A Oh, no, no.

18 Q Was it Gene Hilby?

19 A Actually, I've never heard his last name. I don't  
20 know.

21 Q Have you seen him around the courtroom here?

22 A No, oh, no.

23 MR. REMAKLUS: Thank you.

24 I have no further questions.

25 MR. ROBINSON: Nothing further of this witness,

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Your Honor.

THE COURT: You may step down. Do you still want him to remain available?

MR. ROBINSON: No, Your Honor, he may be released.

THE COURT: Do you object to the witness being released, Mr. Remaklus, at this time?

MR. REMAKLUS: No, Your Honor.

THE COURT: You may leave, Mr. Schreiber, if you want to. Of course, you are free to remain.

We will take our noon recess until 1:30. If you will remember the admonition, ladies and gentlemen, don't discuss the case and keep your minds open.

(Noon recess taken.)



1 WALLACE, IDAHO, FRIDAY, OCTOBER 17, 1975, 1:30 P.M.

2 (Jurors re-entered the courtroom.)

3  
4 THE COURT: Show the jurors are all present.

5 MR. ROBINSON: May I proceed, Your Honor?

6 THE COURT: Yes.

7 MR. ROBINSON: Call Officer Jim Maxwell.

8 THE COURT: You have already been sworn.

9 MR. MAXWELL: Yes.

10  
11 JAMES MAXWELL,  
12 produced as a witness on behalf of the Defendant, having been  
13 previously duly sworn, took the stand and testified as follows:

14  
15 DIRECT EXAMINATION

16 BY MR. ROBINSON:

17 Q Officer Maxwell, when were you first assigned by  
18 your Sheriff, Derold Lynskey, as the Sheriff investigator in  
19 this case?

20 A At the scene.

21 Q That was there near Donnelly on the date of the  
22 bodies being discovered?

23 A Yes, it was.

24 Q All right. And did you go to Mountain Home, Idaho,  
25 on the 8th day of November, 1974 after Carol Spaulding and

1 Tom Creech had been apprehended?

2 A. Yes, I did.

3 Q. Would you advise us as to what portion of that day  
4 you participated in the interrogation sessions with both of those  
5 parties?

6 MR. REMAKLUS: I'm going to object on the ground that  
7 this was covered in direct examination and he had an opportunity  
8 to examine the officer upon cross and this is duplication and  
9 repetitious.

10 THE COURT: Overruled.

11 THE WITNESS: I can't recall the times real accurately.  
12 As near as I can recall I was with Officer Woodall and  
13 Mr. Creech for a short period, around 2:00, I believe.

14 Q. BY MR. ROBINSON: And --

15 A. Just prior to that I had been participating in the  
16 interrogation of Carol Spaulding.

17 Q. Now, specifically in that afternoon session, between  
18 2:00 and 4:00, were you present when the latter part of the  
19 voluntary statement was made?

20 A. To Mr. Creech?

21 Q. By Mr. Creech.

22 A. By Mr. Creech? No, I wasn't.

23 Q. Were you there at 4:00 p.m. when signatures were  
24 applied to the bottom of each of those pages?

25 A. No, I wasn't.

1 Q So, for the total of that voluntary statement you  
2 have no personal knowledge of your own, not being there; is  
3 that correct?

4 A At the very start I was present but not at the  
5 finish.

6 Q Were you there when the first statements were made,  
7 "I did it, I did it, I did it"?

8 A Yes, I was.

9 Q And would you describe the manner and demeanor of  
10 Thomas Eugene Creech when that occurred?

11 A Mr. Creech appeared to be nervous, he was nearly  
12 into tears. At that time he made that statement I offered him  
13 a cigarette.

14 Q All right. And did that response come immediately  
15 after the first question was asked, "We are here to  
16 investigate a double slaying that occurred near Donnelly, Idaho"?

17 A Yes.

18 Q During the course of your investigation did you  
19 come across information that a vehicle of the description of the  
20 '57 Buick had been observed in New Meadows, Idaho, with five  
21 people in it?

22 A Yes, I did.

23 Q Would you advise us who you got that information  
24 from and what you did about it?

25 A From a bar owner by -- I believe his name is

1 "Blinky". Officer Woodall and myself went to New Meadows,  
2 contacted "Blinky" and at this bar that he ran there. We were  
3 able to determine that it was three persons from Boise, or  
4 Caldwell, as near as I can recall, and two local residents.

5 Q Did you talk with any of the occupants, or supposed  
6 occupants of that vehicle to verify the fact that that was the  
7 same circumstance?

8 A The -- I located the vehicle that was in question.

9 Q And was that substantiated, or verified, by Blinky?

10 A Yes, it was.

11 Q In the course of your investigation did you check  
12 out the whereabouts of a 1969 Roadrunner vehicle supposedly  
13 involved in this set of circumstances?

14 MR. REMAKLUS: I think that's assuming facts not yet  
15 in evidence.

16 THE COURT: Sustained.

17 Q BY MR. ROBINSON: Did you ever become aware of a  
18 vehicle of that nature being involved in the investigation at  
19 all?

20 A No, not till this trial.

21 MR. ROBINSON: I have no further questions of  
22 Officer Maxwell.

23 MR. REMAKLUS: I have no questions.

24 THE COURT: You may step down.

25 MR. REMAKLUS: May the Officer be excused at this point?

1 MR. ROBINSON: Officer Maxwell may be excused.

2 THE COURT: You may, if you wish, leave, Officer.

3 MR. ROBINSON: We'd call Mr. Bud Mason.

4  
5 ALVIN R. MASON,  
6 a witness produced on behalf of the Defendant, having been  
7 previously duly sworn, took the stand and testified as follows:  
8

9 DIRECT EXAMINATION

10 BY MR. ROBINSON:

11 Q Mr. Mason, you recall you have been previously  
12 sworn; do you not, sir?

13 A Yes, I do.

14 Q All right. Mr. Mason, when did you first come into  
15 contact with Thomas Eugene Creech, the defendant here?

16 A I believe it was November 8th, 1974.

17 Q Where?

18 A Mountain Home, Idaho.

19 Q And what were the circumstances?

20 A I was with Deputy Maxwell, Investigator Woodall,  
21 Carol Spaulding when we proceeded to the Mountain Home Police  
22 Department where Mr. Creech was. We took him out of the  
23 Mountain Home Police Department Jail, put him in a car and  
24 transported him to Cascade.

25 Q All right. And did you participate in any

1 interrogation on that particular day?

2 A. Yes, I did.

3 Q. What was the nature of your interrogation?

4 A. While being transported from Mountain Home to  
5 Cascade I talked to Tom Creech.

6 Q. All right. And is that the circumstance that you  
7 testified on examination when you previously were on the stand  
8 in your testimony?

9 A. Yes, it was.

10 Q. All right. Were you riding alongside Tom Creech  
11 for that entire period of time, from Mountain Home, clear to  
12 Cascade?

13 A. Setting on his left side.

14 Q. And was that a continuous trip, or were there stops?

15 A. It was a continuous trip.

16 Q. All right. And during the course of that trip did  
17 you ask particular questions of Tom Creech regarding the  
18 circumstances of the double slaying in Donnelly?

19 A. Yes, I did.

20 Q. Would you advise us what questions that you asked  
21 and what responses you received at that time?

22 A. First of all I advised Mr. Creech of the Miranda,  
23 told him that I wasn't mad at him but I simply asked him what  
24 happened. He related that the fellow in the back seat had  
25 threatened him with a knife and he shot him.

1 Q And then what did you next ask?  
2 A I asked him if he'd ever heard of a man by the name  
3 of Gordon Stanton and he said, "Oh, Gordie, I killed him in  
4 Nevada."  
5 Q This was during this trip from Mountain Home to  
6 Cascade?  
7 A Yes, it was.  
8 Q Have you had some previous information about  
9 Gordon Stanton?  
10 A Gordon Stanton's mother called me from Montana.  
11 Q When was that?  
12 A I talked to her November the 8th, 1974.  
13 Q The same day that Tom Creech was arrested?  
14 A No, I believe he was arrested -- beg your pardon,  
15 yes, it was the same day.  
16 It was the 8th.  
17 Q How did she happen to call you on that occasion?  
18 A She had been in contact with the Nevada authorities  
19 -- should I relate what they told me?  
20 Q Yes, go ahead.  
21 A She was scheduled for open heart surgery in Montana.  
22 Her son, Gordon Stanton, was enroute from San Francisco where  
23 he had a business, to be with her in Montana for the open heart  
24 surgery. Since he did not arrive she became very concerned,  
25 she contacted the Nevada authorities, they were unable to find

1 her son.

2 She related that from -- when Tom Creech was  
3 arrested his picture flashed on the television screen and she  
4 realized this was the same person that had been last seen with  
5 her son in Las Vegas, according to what she found out from the  
6 officials there.

7 She called the State Police in Boise and the State  
8 Police relayed a message to me to call, I believe her name is  
9 Mrs. Hosking in Montana. I returned her call, she asked me if  
10 I would ask Tom Creech if he knew where her son was; which I  
11 did.

12 Q And then you received the response from Tom on  
13 this road trip from Mountain Home to Cascade that, yeah, he  
14 knew "Gordie"?

15 A Yes.

16 Q What further conversation did you have with  
17 Tom at that time and on that occasion about Gordon Stanton?

18 A I believe he said that Gordon Stanton had been  
19 introduced to him through a -- another person, Ernie Small.  
20 Ernie Small was, as I can recall, brought Tom Creech from  
21 California to Las Vegas. Ernie Small then introduced  
22 Gordon Stanton to -- I'm sorry, Ernie Small introduced Tom Creech  
23 to Gordon Stanton.

24 Q Was the whereabouts of Gordon Stanton divulged to  
25 you at this time?



1           A.     I believe it was. It was in the Nevada desert  
2 between Lathrop Wells and Indian Springs.

3           Q     So, before you got back to Cascade you knew of a  
4 death circumstance involving Thomas Eugene Creech and that was  
5 he admitted that he had killed Gordon Stanton?

6           A.     Is that a question?

7           Q     Yes.

8           A.     Yes.

9           Q     And did he tell you the specific location of that  
10 body?

11          A.     Said it was about 200 feet off of the highway and I  
12 don't recall the highway number; between Lathrop Wells and  
13 Indian Springs. Also related that the car -- the vehicle had  
14 been left there at that -- in that area.

15          Q     All right. How soon did you cause this matter to  
16 be checked out and verified?

17          A.     About three days later, I believe.

18          Q     And was the Gordon Stanton body located by the  
19 Nevada authorities from the information you gave them?

20          A.     A body was located.

21          Q     All right. Was there any further conversation  
22 between you and Tom on this trip back to Cascade?

23          A.     I'm sure there was. I don't recall all of the  
24 conversation.

25          Q     Was there any conversation regarding any other

1 person being killed?

2 A. Not other than the two in Donnelly and the one in  
3 Nevada.

4 Q All right. And how soon was Tom transferred to the  
5 Ada County Jail in Boise, Idaho, after November the 8th of '74?

6 A. I really can't say, Counselor. It was some days  
7 later.

8 Q All right. Did you continue to make contact with  
9 Thomas Creech in your investigation?

10 A. Yes, I did.

11 Q On what basis -- I mean, how frequently?

12 A. Many times regarding investigations on out-of-state  
13 investigations.

14 Q These investigations that you already had some  
15 information on, or was it inquiry from out-of-state authorities?

16 A. Primarily it was inquiries from out-of-state  
17 departments, other agencies.

18 Q And each time you would receive some of this  
19 information you would take it to Tom Creech and ask him  
20 questions about it?

21 A. I would contact Tom Creech and ask him about it,  
22 yes.

23 Q When did he next give you information of the  
24 location of a body admitting that it was a victim of his?

25 A. I believe it was the two Oregon murders.

1 Q Pardon?

2 A I believe it was when the Oregon authorities came  
3 over and contacted Tom Creech. I was there at that time.

4 Q Well, that was the day after his arrest, on the  
5 9th day of November; wasn't it?

6 A I don't recall.

7 Q Didn't they visit him right in the Valley County  
8 Jail?

9 A I wasn't there at that time in Valley County.

10 Q Well, you are familiar with the transcript of the  
11 recording they made on that day in Valley County; are you not?

12 A No, I'm not. I wasn't there.

13 Q What do you mean that was the next that he  
14 admitted to and gave that information to you?

15 A Well, there were other officers present from  
16 Oregon.

17 Q Both of those bodies had been found back in August;  
18 had they not?

19 A I believe they were found previous to Mr. Creech's  
20 arrest, yes.

21 Q All right. Then what was the next information  
22 given to you by Tom Creech?

23 A I really don't recall. Some days later.

24 Q Were you able to locate any other bodies through  
25 information given to you by Tom without going to the locations?

1 A. Yes.

2 Q. And which were those?

3 A. Without going to the locations?

4 Q. Yes.

5 A. No.

6 Q. All right. When did you make your first trip with  
7 Thomas Eugene Creech to another location; asking and getting  
8 his assistance in locating a body?

9 A. I believe that he was anxious to go to New Mexico  
10 as we were to find any bodies, if they existed. It was  
11 February the 25th of this year when I accompanied Tom Creech to  
12 Albuquerque, New Mexico in search of three Mexicans -- male  
13 Mexicans that he allegedly killed.

14 Q. How did you come by that information?

15 A. From Tom Creech.

16 Q. That was not an inquiry from out-of-state  
17 authorities?

18 A. No.

19 Q. And, specifically, what mode of transportation did  
20 you use to go to New Mexico?

21 A. We flew.

22 Q. And what was the exact location that you went to in  
23 New Mexico?

24 A. Albuquerque.

25 Q. And how far from Albuquerque, New Mexico, was it

1 necessary to travel to look at the location that Tom designated?

2 A Just outskirts of town. I believe it was on the  
3 east side of Albuquerque. It was a highway running out -- in and  
4 out of Albuquerque.

5 Q Okay. Would you describe what happened there as  
6 far as your acitons and Tom's actions are concerned?

7 A We traveled by car from the jail out to the  
8 highway where Tom Creech pointed to a corral, a horse corral  
9 alongside the road, the right side of the road, and it set much  
10 lower than the highway did.

11 He said "Here, there is the place, stop here." So,  
12 we did. We left the car and walked along the horse corral to  
13 the opposite end of the horse corral to an area that he pointed  
14 to and said "They are down there".

15 There was a, what appeared to be, a railroad tie that  
16 was in the ground. He said "I was standing by that railroad  
17 tie and shot the two of them." The first one he shot was up on  
18 the highway and had the other two fellows drag the body out of  
19 the car and down to this big fence post.

20 We looked for the bodies and there wasn't any  
21 evidence of anybody being there.

22 Q No soft dirt?

23 A No.

24 Q Were any other locations attempted to be found on  
25 that trip?

1 A. Several.

2 Q. And where were they?

3 A. Along other routes of travel, main highways,  
4 thoroughfares in and out of Albuquerque. Near a sign, we were  
5 looking for a particular Exxon sign that we never found.

6 Q. Was inquiry made of the local law enforcement  
7 officers to determine missing persons?

8 A. I'm sure there was. I didn't personally do that.

9 Q. All right. And when was the next time that you left  
10 Boise, Idaho with Tom Creech to locate bodies -- a body or bodies?

11 A. Is when we went from Boise to California.

12 Q. Barstow, California?

13 A. It was Daggett, California, yes.

14 Q. All right. And that was an unsuccessful trip in  
15 locating any bodies also; is that correct?

16 A. In many ways.

17 Q. I take it, then, from your testimony that you did  
18 not go into either Wyoming or Montana with Tom?

19 A. No, I did not.

20 MR. ROBINSON: May I have just a second, please,  
21 Your Honor.

22 (Brief delay.)

23 Q. BY MR. ROBINSON: While in New Mexico, did you get  
24 a positive identification on Tom Creech from a witness there  
25 that had remembered seeing him push a bike, motorcycle?

1           S     Yes, I believe it was an owner of the property where  
2     the horse corrals were. Here again, this was hearsay, Counselor.  
3           Q     I'm not objecting.  
4           A     All right. One of the State Policemen,  
5     Bobby Gonzalez contacted -- or recontacted the person there  
6     whose name I don't know, the owner of the horse corral. He  
7     indicated that he had seen Tom Creech sometime before. It would  
8     have been last summer, he said, pushing a, what looked like a  
9     Honda motorcycle along the highway up above where the corrals  
10    were. Whether it was out of gas or not he didn't know.  
11    But, that motorcycle was not running. He was just pushing a  
12    motorcycle along the highway.  
13           Q     All right. And the trip to Barstow, California,  
14    was the last trip that any law enforcement officers took Tom  
15    out of town on any search; is that correct?  
16           A     I don't know.  
17           Q     The last that you have any knowledge of?  
18           A     Yes.  
19           Q     Following that crash, was it necessary to stay  
20    in Nevada overnight?  
21           A     I think it was.  
22           Q     And where did you, Sheriff Palmer and Tom Creech  
23    stay?  
24           MR. REMAKLUS: I object to this as being irrelevant  
25    and immaterial.

1 THE COURT: Overruled.

2 THE WITNESS: In a motel.

3 Q BY MR. ROBINSON: During that stay that night was  
4 Tom in handcuffs and shackled?

5 A Yes, he was.

6 Q The handcuffs and shackles do damage to his body  
7 circulation during the night?

8 A I don't know, Counselor. I didn't stay with him.

9 Q Pardon?

10 A I don't know. He did not stay with me.

11 Q He was in another room?

12 A Yes.

13 Q All right. And do you know who he was with in that  
14 other room?

15 A With Sheriff Palmer, Sergeant Taylor.

16 Q All right. And were you present when there was  
17 any conversation and statement by Tom Creech about being placed  
18 in a Nevada jail?

19 A Many times.

20 Q And what were his comments in that regard?

21 MR. REMAKLUS: I would object on the grounds that it's  
22 irrelevant and immaterial, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: I think, if you'd ask me a specific time  
25 and place I could intelligently answer it.



1 Q BY MR. ROBINSON: Let's go specifically to that  
2 date of May 4, 1975. What did he state on that occasion about  
3 being placed in a Nevada jail?

4 A He was afraid of being placed in a Nevada jail.

5 Q For what reason?

6 A Said he'd never get out of Nevada.

7 Q What? Pardon?

8 A He was afraid he'd never get out of Nevada.

9 Q Did he state any further reason for that comment?

10 A Not that I can recall.

11 Q Did you aid and assist in any further investigation  
12 of any other death circumstances and in an attempt to locate  
13 any bodies without having gone out of state to locate the  
14 bodies?

15 A Many.

16 Q And how many of those investigations that you  
17 participated in have resulted in the location of the person you  
18 were advised by Tom that they were his victim?

19 A Should I name them?

20 Q Yes, if you would.

21 A The two in Donnelly, one in Nevada and also two in  
22 Oregon.

23 Q Gordon Stanton?

24 A Nevada.

25 Q And Miller in Nevada?

1           A.     One in Nevada, Gordon Stanton.

2           Q.     All right. Did you aid and assist any of the

3 investigation of those death circumstances in California?

4           A.     Yes, I did.

5           Q.     And what were the results of your investigation as

6 to verification of the existence of a body, or that a person

7 by that name, that description supplied by Tom had been found?

8           A.     I don't understand your question.

9           Q.     What bodies were verified to be Tom's victims in

10 California?

11          A.     None to my knowledge.

12          Q.     The five that you have named are the total limit

13 of the information that you have that you investigated on; is

14 that correct?

15          A.     That I can verify that Tom Creech was involved with

16 that particular murder, yes.

17          Q.     How about Rick McKinzie?

18          A.     I'm not sure.

19          Q.     What do you mean you are not sure?

20          A.     I wasn't there in Wyoming.

21          Q.     He took the officers directly to that person, did

22 he not?

23          A.     I was not there.

24          Q.     Well, isn't that the information you received from

25 your investigation?

1 A Yes.

2 MR. REMAKLUS: I'll object --

3 MR. ROBINSON: I have no further questions, Your Honor.

4

5 CROSS EXAMINATION

6 BY MR. REMAKLUS:

7 Q Who are the two bodies in Donnelly that the defendant

8 identified to you?

9 A Arnold and Bradford.

10 Q And who were the two in Oregon?

11 A William Dean and the girl at the grocery store.

12 I don't recall her name.

13 Q Jean Ramsamoog?

14 A Yes.

15 Q Was that Billy Dean that was killed in Portland,

16 Oregon that you just referred to?

17 A In a church, yes.

18 Q And the full name of the other person, was that

19 Sandra Jane Ramsamoog?

20 A I believe that's what it was.

21 Q Yes. And on the trip to Albuquerque in your

22 investigation about the three Mexicans and investigation of

23 other routes, you didn't find anything, is that right?

24 A We didn't find any bodies.

25 MR. REMAKLUS: Thank you. I have no further questions.

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REDIRECT EXAMINATION

BY MR. ROBINSON:

Q Mr. Mason, the Portland death of Billy Dean and Salem death of Jane Ramsamoog, you didn't go there and personally verify that, did you?

A No, the bodies had already been discovered prior to his arrest.

Q What's the difference between that one and the McKinzie matter?

MR. REMAKLUS: I'm going to object; leading question, argumentative.

THE COURT: Sustained.

MR. ROBINSON: I have nothing further, Your Honor.

I stipulate that this man can be excused.

MR. REMAKLUS: Yes.

THE COURT: Yes, you may be excused.

THE WITNESS: Thank you, Judge.

MR. ROBINSON: Call Sheriff Palmer.

E. C. PALMER,

produced as a witness on behalf of the Defendant, having been previously duly sworn, took the stand and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. ROBINSON:

3 Q Sheriff Palmer, you recognize the fact that you  
4 were previously sworn; do you not, sir?

5 A Yes, I do.

6 Q All right. Sheriff Palmer, when did you receive  
7 Thomas Eugene Creech in your custody?

8 A In the first part of November, 1974.

9 Q And how long after receiving him into custody, your  
10 custody, was it that you involved yourself into the  
11 investigation of any of the death circumstances that you heard  
12 described here in court?

13 A Probably about a week.

14 Q And how did that commence, specifically, Sheriff  
15 Palmer?

16 A It was in the evening and one of the officers from  
17 the jail proper called me and said they were having trouble  
18 with prisoner by the name of "Creech"; asked that I come up to  
19 the jail.

20 When I went to the jail I observed Mr. Creech laying  
21 on the floor in one of the cells hyperventilating, very  
22 distraught, his hands were shaking and seemed like he was in a  
23 seizure of some sort. I observed the officers trying to bring  
24 him around and talk with him and were having problems  
25 communicating with him. That was about the first time I came

1 into contact with him.

2 Q Is that the same set of circumstances you described  
3 when you were on the stand before?

4 A Yes, it is.

5 Q And that's when you told him to snap out of it, you  
6 wanted to talk to him and sit up and he did?

7 A That's correct.

8 Q During that episode, had Tom inflicted any injury  
9 to himself?

10 A No.

11 Q And at that time did you commence interrogation,  
12 or talking with Tom regarding any requested information from  
13 out of state?

14 A No, I don't think so at that time.

15 Q All right. Then you have interrogated Tom Creech  
16 regarding out-of-state involvements; have you not, during the  
17 time you -- he was in your custody?

18 A Yes, I have.

19 Q And when was the first time that that type of  
20 interrogation commenced?

21 A I don't remember the exact time but it was within  
22 about a week after that time. I was called to go up and  
23 observe and talk with the defendant with Investigator Bud Mason.

24 Q All right. And what specific episode, or victim,  
25 were you and Bud Mason talking about at that time?

1           A.     I think I was, more or less, observing at that  
2 time and listening. I don't recall exactly which one it was;  
3 whether it was Stanton or what one. There was many, many  
4 victims that were talked about and I just don't remember which  
5 one was the first one we talked about.

6           Q.     All right. Do you know whether or not these  
7 interviews were being taped?

8           A.     There was many of them taped.

9           Q.     On what kind of equipment, regular Cassette tape?

10          A.     We had some on Cassette and some on reel-to-reel.

11          Q.     All right. Were there ever video tapes that were  
12 taken in interviews of out-of-state officers, yourself and  
13 Tom Creech?

14          A.     Yes, there was.

15          Q.     On how many different occasions?

16          A.     I believe there was two.

17          Q.     When did you first authorize an out-of-state trip  
18 for Tom to accompany law enforcement officers to identify  
19 location of the body?

20          A.     I can't remember the date. I know the first trip  
21 that we went on was to Wyoming.

22          Q.     Where in Wyoming?

23          A.     That was Baggs, Wyoming.

24          Q.     And what was found on that trip?

25          A.     We located a body of Rick McKinzie on that particular

1 trip.

2 Q And did you go on that trip yourself?

3 A Yes, I did.

4 Q And who accompanied you?

5 A I had Sergeant Taylor with me and a pilot of the  
6 aircraft.

7 Q And Tom Creech?

8 A Yes.

9 Q All right. Any Wyoming officers?

10 A Yes, there was.

11 Q And who were they?

12 A They met us -- I believe their man in charge was  
13 John Halderson, the Attorney General's office, State of  
14 Wyoming.

15 Q All right. And was there an attempt to locate any  
16 other persons besides Rick McKinzie on that particular trip?

17 A Yes, there was.

18 Q Would you tell us the circumstances and the results  
19 of that search?

20 A There was supposed to have been another man there  
21 by the name of Waco; also known as Larry Johnson. We were unable  
22 to locate that body.

23 Q And what was his description of that location in  
24 relationship to Rick McKinzie's?

25 A It was allegedly about 100 yards downstream, down



1 the ravine from the location of the body of Rick McKinzie.  
2 Q And when was that trip made?  
3 A I don't remember the specific date on that trip.  
4 I think it was sometime in April or May.  
5 Q Of this year?  
6 A '74 -- '75, yes.  
7 Q This year, '75?  
8 A Yes.  
9 Q All right. Well, now, was there a trip made by  
10 Mr. Mason and Tom Creech back in February to Albuquerque,  
11 New Mexico?  
12 A No, I think that I made a trip to Wyoming before  
13 that trip and I'm again not sure of the date that I made the  
14 trip to Wyoming. There's a lot of snow on the ground so it  
15 could have been earlier than that.  
16 Q All right. But, you authorized Bud Mason to take  
17 Tom Creech on the trip to New Mexico; did you not?  
18 A Yes.  
19 Q All right. And were there any trips authorized by  
20 you between the Wyoming trip and the New Mexico trip?  
21 A I believe we went to Montana in between those also.  
22 Q All right. And who went on that trip?  
23 A Myself, Sergeant Taylor, the pilot.  
24 Q Tom Creech?  
25 A And Tom Creech.

1 Q And were you joined in Montana by Montana law  
2 enforcement officers?

3 A Yes, we were.

4 Q And what were the net results of this trip?

5 A We never located any bodies when we went up there,  
6 the specific ones that we were looking for.

7 Q And, to your knowledge, have any of those bodies  
8 been located?

9 A The only body that I know that was located was  
10 located prior to our going up there.

11 Q And who was that?

12 A I don't know the individual's name.

13 I understand it was a newscaster and I can't  
14 remember his name.

15 Q Did the verification of that coincide with reports  
16 by Tom that this was one of his victims as to potential time  
17 and place?

18 A I don't think enough so the authorities up there  
19 were satisfied with getting a complaint on that. Mr. Creech  
20 said that he had killed this man but there was some question as  
21 far as the authorities were concerned and, so, to my knowledge  
22 there was never a complaint issued on that particular  
23 homicide.

24 Q All right. From information -- strike that, please.  
25 Wyoming, Montana trip and the Albuquerque trip, what,

1 if any other trip was made with Tom out of state?

2 A. California.

3 Q. And is that the trip that we've heard about that  
4 occurred May the 4th of 1975?

5 A. Yes, it is.

6 Q. That resulted in an air crash?

7 A. Yes.

8 Q. And, in fact, after that air crash, did Tom Creech  
9 stay the night in a motel with you and Officer Taylor?

10 A. Yes, he did.

11 Q. And did he suffer some injury, lack of circulation  
12 from the handcuffs?

13 A. Yes.

14 Q. Would you describe that?

15 A. Well, like was brought out here earlier, Tom was  
16 very concerned about going to jail. We had had a rather hectic  
17 day and, so, he wanted to stay in a motel rather than go to the  
18 jail cell and he had a lot of medication and so forth that he  
19 was taking and I elected to keep him in the motel room. Myself,  
20 Sergeant Taylor and Mr. Creech stayed in a motel. He was  
21 handcuffed face down on the bed and, during the night I guess  
22 his arms hanging over the side of the bed, the circulation was  
23 poor and his hands were swelled up some. It wasn't a lot of  
24 injury, but there was some swelling in his hands.

25 Q. And did he make comment as to why he had not

1 complained of this?

2 A. Yes, he did.

3 Q. And what was that?

4 A. "I was afraid Taylor would shoot me".

5 Q. If what?

6 A. "If I rattled that chain".

7 Q. And has Tom expressed to you, on several occasions,  
8 his fear of being put into a Nevada jail?

9 A. Yes, he has.

10 Q. On how many different occasions?

11 A. I don't remember. Numerous.

12 Q. And has he explained the reason for that fear?

13 A. He didn't trust the Nevada authorities.

14 Q. As a result of your investigation, interrogation  
15 and cooperation with out-of-state law enforcement officers, have  
16 you and they resolved any deaths attributed to Tom in  
17 California?

18 A. Yes.

19 Q. And which of those deaths have been verified?

20 A. To my satisfaction I believe Vivian Grant Robinson  
21 was a victim of Tom Creech.

22 Q. That's the Sacramento, California?

23 A. Yes.

24 Q. All right. Any others in California?

25 A. There was others that he talked about. We could

1 not verify those.

2 Q Was that because the bodies had not been found or  
3 that circumstances could not be tied together with known bodies?

4 A Both.

5 Q And the same question relating to Arizona.

6 A I believe the only death down there was the one  
7 that he was tried for.

8 Q Paul Shrader?

9 A Yes.

10 Q Any in New Mexico that have been verified?

11 A Not to my knowledge.

12 Q To your satisfaction, have more than two deaths  
13 been verified in the State of Nevada?

14 A No, just the two.

15 Q And those two are whom?

16 A I believe that's Charles Thomas Miller and the  
17 other fellow between Good Springs and Lathrop Wells.

18 Q Gordon Stanton?

19 A Gordon Stanton.

20 Q Aside from the circumstances in Portland and Salem  
21 in Oregon, have there been any verifications there?

22 A No, not that I can recall.

23 Q In the State of Washington?

24 A Not to my knowledge that I can recall.

25 Q Any in the State of Montana?

1 A. No.

2 Q. And the State of Wyoming?

3 A. Just the one, Rick McKinzie.

4 Q. And was that, to your satisfaction, that that was a

5 verification of information given by Tom to you in your

6 investigation?

7 A. Yes, I believe he killed that man.

8 Q. Were there any in Utah?

9 A. No.

10 Q. Colorado?

11 A. Not to my knowledge.

12 Q. Any other verifications at all outside of the

13 State of Idaho, of course?

14 A. Not that I recall right off, no.

15 Q. And, Sheriff Palmer, would you describe to us what

16 efforts you made, with either the Kentucky or Ohio law

17 enforcement officials for a verification of the information

18 given to you by Tom Creech of deaths in those localities?

19 A. Investigations have been quite extensive. We've

20 had officers out from Ohio, Kentucky and talked to Mr. Creech

21 on many and numerous occasions. We've ran him on polygraph,

22 psychiatrists has talked with him, Sodium Pentothal, hypnosis.

23 Q. And have you been present during most of those

24 sessions?

25 A. Yes, I have.

1 Q When did Thomas Eugene Creech first advise you of  
2 his total involvement in the Satanic Cult?

3 MR. REMAKLUS: I'll object to the form of the question.

4 THE COURT: Sustained.

5 Q BY MR. ROBINSON: Sheriff Palmer, did Thomas Creech  
6 ever advise you of his involvement in the Satanic Cult?

7 A Yes.

8 Q And how soon after you had taken his custody in  
9 Ada County?

10 A I don't remember the exact time. He asked me for a  
11 Satanic Bible and I don't remember when it was.

12 Q Was that prior to Christmas of '74?

13 A I don't remember.

14 Q Have you ever personally witnessed Tom freaking out  
15 claiming that the devil was acting in him?

16 A Not claiming the devil was acting in him.

17 Q Or working on him?

18 A I observed him in the solitary cell one time when  
19 he claimed that there was blood pouring through the bars and  
20 so forth. But, I think that was faked. In fact, he told me  
21 it was faked later on.

22 Q Any other circumstances?

23 A When he was under hynosis and under Sodium Pentothal,  
24 if you want to call that --

25 MR. REMAKLUS: I'm going to object and ask that that

1 answer be stricken and the jury advised to disregard it because  
2 it violates the law of the case, Your Honor.

3 THE COURT: Yes, I'll sustain the objection and strike  
4 the answer and instruct you to disregard it, ladies and  
5 gentlemen..

6 Q BY MR. ROBINSON: Did Tom Creech ever advise you  
7 that he participated, or witnessed Satanic sacrificial deaths?

8 A Yes.

9 Q And do you recall when that first time occurred?

10 A No.

11 Q Was it prior to the time of the first scheduling of  
12 trial in Cascade, Idaho?

13 A Yes.

14 Q And what did you do with information given to you  
15 from -- by Tom Creech in that regard?

16 MR. REMAKLUS: I object as being leading and suggestive.

17 THE COURT: Overruled.

18 THE WITNESS: What did I do with the information?

19 Q BY MR. ROBINSON: Yes, sir.

20 A Well, we investigated two different alleged places  
21 where supposed -- or three, I guess, supposed sacrifices had  
22 been made.

23 Q And what were those locations?

24 A When we were in Montana, in Seattle and in  
25 San Diego, Los Angeles County.



1 Q All right. And which agency in Montana in  
2 particular did you contact and confer with them in that regard?

3 A That was the Sheriff's office, Missoula.

4 Q And were searches made of the designated area  
5 described by Tom to ascertain whether or not there was, or was  
6 not, a temple?

7 A Yes, there was.

8 Q And what was the net result of that investigation?

9 A I don't remember whether they found a temple from  
10 his description or not.

11 Q And how about burial grounds and any bodies of any  
12 victims?

13 A Not in Montana that I know of.

14 Q The State of Washington, who in particular had you  
15 contacted in regards to Satanic temples in the State of  
16 Washington?

17 A Detective Dunn in Seattle.

18 Q King County Sheriff's office?

19 A Yes.

20 Q And were any temples found as a result of the  
21 information supplied by Tom Creech?

22 A Whether it was a temple or not, I don't know. There  
23 was a house located where Mr. Creech alleged that there was  
24 sacrifices made.

25 Q And was evidence found that human blood existed in

1 that area?

2 MR. THOMAS: Objection, Your Honor, irrelevant,  
3 improper foundation.

4 THE COURT: I'm going to limit -- you're going to have  
5 to decide which Counsel is going to make the objections and  
6 be consistent.

7 MR. REMAKLUS: Yes, improper foundation, Your Honor.

8 THE COURT: Sustained.

9 Q BY MR. ROBINSON: Were burial grounds searched for  
10 as a result of this information in an attempt to locate bodies  
11 of human sacrifices?

12 A Yes.

13 Q And what was the net result of those efforts?

14 A I don't know what the net results were of those.

15 Q All right. Now, the location in San Diego,  
16 California. Who did you contact there in particular?

17 A That was Detective Solar and Detective Solarzano,  
18 Los Angeles County Sheriff's office.

19 Q Is that San Diego or Malibu?

20 A That's Los Angeles County Sheriff's office and  
21 I understood it was near San Diego, but I could be wrong.

22 Q All right.

23 A It's near Malibu, I know they did talk about that.  
24 I don't know that country that well.

25 Q And from the description given by Tom Creech of

1 that area, were any people or sacrificial alters found?

2 A. There was a location searched for down there. As  
3 to whether there was a temple there or a sacrificial ground,  
4 I don't know. There was a ranch searched quite extensive but,  
5 I think there was a trailer house on that ranch where it was  
6 alleged that there was some sacrifices made by Mr. Creech. We  
7 located that.

8 Q And were there pictures and paraphernalia of a  
9 Satanic Cult found in that search?

10 A. I was advised that they did find some, yes.

11 Q And was there an attempt to locate burial grounds  
12 or bodies of sacrificial victims?

13 A. Yes, there was.

14 Q And what was the net result of that effort?

15 A. They were all negative.

16 MR. ROBINSON: May I have just a moment, please,  
17 Your Honor.

18 (Brief delay.)

19 Q BY MR. ROBINSON: Sheriff Palmer, in that regard,  
20 at this Malibu location, were you advised there was a hand bone  
21 found?

22 MR. REMAKLUS: I would object, there is no foundation  
23 for that.

24 THE COURT: Sustained.

25 MR. ROBINSON: Your Honor, may we have a short recess

1 and, then, a conference with the Court before the jury is  
2 brought back in after that recess?

3 THE COURT: Yes, we'll take a ten-minute recess, ladies  
4 and gentlemen. Remember the admonition, don't discuss the  
5 case and keep your minds open.

6 (Recess taken.)

7 THE COURT: Show that the jurors are all present.

8 MR. ROBINSON: Your Honor, I have no further questions  
9 of Sheriff Palmer. You may examine.  
10

11 CROSS EXAMINATION

12 BY MR. THOMAS:

13 Q Sheriff Palmer, has Mr. Creech ever admitted to  
14 giving you false leads or false information for any personal  
15 motive?

16 A Yes, I believe so.

17 Q Would you give some examples of that?

18 A I think probably when we went on some of these  
19 runs, or into California certainly there was nothing there and  
20 I'm sure he probably enjoyed the chance to get out of jail and  
21 I would say, probably that would.

22 Q Isn't it also a fact that he took you to the  
23 Calico Mines area around Barstow, California?

24 A Yes.

25 Q Was that done more than once?

1 A. No, that was just once.  
2 Q. Did you actually travel down there yourself with  
3 Mr. Creech?  
4 A. Yes, I did.  
5 Q. And the purpose of that, as I understand it, was to  
6 search the mines for bodies that he said he had thrown into the  
7 mine shafts?  
8 A. That's correct.  
9 Q. Did you make a thorough search of that area?  
10 A. Yes, we did.  
11 Q. Did you ever find any bodies?  
12 A. No.  
13 Q. And did Mr. Creech change the story at any time  
14 after that about where bodies were in the Calico Mines?  
15 A. Yes.  
16 Q. What did he say next about it?  
17 A. They were in different mines than what we had  
18 searched.  
19 Q. In fact, isn't it true that on several occasions  
20 Mr. Creech has given you information which turned out to be  
21 false and followed it up with another false story?  
22 MR. ROBINSON: Objection, leading, suggestive.  
23 MR. THOMAS: This is cross-examination, Your Honor.  
24 THE COURT: Unless you want to claim the witness is  
25 hostile to you, Mr. Robinson. It's your witness at this point.

1 MR. ROBINSON: I would claim the hostility of the witness,  
2 yes, Your Honor.

3 THE COURT: All right, I'll require that you not use  
4 leading questions.

5 Q BY MR. THOMAS: What was it, Sheriff Palmer, that  
6 caused you to continue looking for bodies?

7 A Different stories, different leads by Mr. Creech.

8 Q Why did you decide to do so?

9 A He was a very convincing man as far as his stories  
10 were concerned. We found that what we talked about earlier and  
11 I thought he was capable of this, so, we continued to search  
12 for them.

13 Q I'm handing you, Sheriff, State's Exhibit 67. Have  
14 you seen that before?

15 A Yes, I have.

16 Q Under what circumstances did you see it previously?

17 A Lynn Plowman and her minister brought this to my  
18 office, Sheriff's office, in Ada County.

19 Q Do you have any knowledge of it having been  
20 intercepted by the Attorney General's office that Mr. Creech  
21 testified earlier?

22 A It was not. It was brought directly to me. It was  
23 mailed from my office -- I imagine some other office, but at  
24 any rate it went directly to Mrs. Plowman and her minister  
25 brought it directly to my office.

1 Q And did the defendant ever have any discussion with  
2 you about the killing of Arnold and Bradford?

3 A Yes, he did.

4 Q What was the nature of that discussion?

5 MR. ROBINSON: Objection unless we elicit, Your Honor,  
6 to time, place, those present.

7 MR. THOMAS: Let me withdraw the question if I may, and  
8 proceed further.

9 THE COURT: All right.

10 Q BY MR. THOMAS: When was the discussion and where  
11 did it take place?

12 A Took place in the Detective Annex, Ada County,  
13 Boise, Idaho.

14 Q When? Do you recall?

15 A I don't recall the exact date without referring to  
16 my notes.

17 Q Could you give some approximation of when it was?

18 A It was just prior to our trip to California.  
19 Mr. Dykes from the California, San Bernadino County Sheriff's  
20 office was up there. So, probably be in the latter part of  
21 June, middle of June.

22 Q Of 1975?

23 A Yes.

24 Q And who was present at that time?

25 A Myself, Mr. Creech, Mr. Dykes and also

1 Lieutenant Mann of the Detective Division, I believe another  
2 officer in another outfit, I'm not sure which.

3 Q Did the defendant make a statement to you about the  
4 killing of Arnold and Bradford?

5 A Yes, he did.

6 Q And could you describe that statement, please.  
7 State what he said and best words you can.

8 A Can I refer to my notes on that?

9 Q Yes.

10 A I believe that transcript has been admitted into  
11 evidence if I could refer to it.

12 MR. THOMAS: May the witness do that, Your Honor?

13 THE COURT: Number 49.

14 THE WITNESS: I could probably best refer to exactly  
15 what was said by myself and Mr. Creech if I read the  
16 transcript. I can read it and, then, tell you what's in it.  
17 But, I think it would be better if I quote exactly what it was.

18 Q BY MR. THOMAS: What transcript are you referring  
19 to now?

20 A This is a taped interview that I was -- when I was  
21 talking to Mr. Creech and he told us how this murder took  
22 place in Donnelly.

23 MR. ROBINSON: Your Honor, may I ask Sheriff Palmer a  
24 question or two in aid of objection, I have one.

25 THE COURT: Yes.



VOIR DIRE EXAMINATION

BY MR. ROBINSON:

Q. Sheriff Palmer, was Tom Creech, again prior to this interview, given his Miranda Warnings and advised that anything he said would be used against him?

A. Yes, he was.

Q. And that he had a right to have his attorney present?

A. Yes, he was.

Q. And is this at a time when he was represented by counsel and his counsel was not called and asked to be present in discussing the Idaho circumstances?

A. No, his attorney was not called. He requested that he not be called, in fact.

MR. ROBINSON: Same objection that we posed earlier, Your Honor.

THE COURT: Yes, I'm going to sustain the objection.

MR. THOMAS: I have no further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. ROBINSON:

Q. Sheriff Palmer, you personally went to the Calico Mines; did you not?

A. Yes, I did.

Q. All right. And would you advise the jury what this Calico Mines territory and area is like?

A. It's in the desert area.

Q. And is there a honeycomb of mines?

A. Yes, many mines.

Q. How many?

A. I don't know.

Q. Hundreds of different shafts, mine areas, to search through?

A. The term "hundreds" I don't know. There's many mines. I don't know how many.

Q. All right. And did you have the local law enforcement officers in that area with you during this search?

A. Yes, I did.

Q. They had particular, specific knowledge of the territory and area?

A. Yes, they did.

Q. Was this territory and area there strange to Tom?

A. No.

Q. Were you convinced he had been there?

1           A     Yes, I felt that he had.

2           Q     And could you -- the bodies then be located in a pit  
3 as he has described, but not the exact location?

4           A     No, we could not locate them.

5           Q     You could not locate them according to his  
6 information?

7           A     That's correct.

8           Q     And he has changed that information on you?

9           A     Yes.

10          Q     And what was the reason that he gave you for  
11 changing that information?

12          A     He gave me two different reasons.

13          Q     May we have both of them?

14          A     One of them was that he felt that his mother was  
15 in those mines and he didn't want her brought up without him  
16 being there and the other one was that he wanted to hold  
17 something back for a "kicker" in case he needed it at a later  
18 time.

19          Q     And when was the last search made of that area;  
20 either by your request or by the local law enforcement officers  
21 there?

22          A     They made several subsequent searches after we came  
23 back. I don't know the exact time that the last one was made.

24          Q     And is there an old man guarding that area down  
25 there with a rifle shooting at people?

1           A     I don't know that he's shooting at people. I know  
2     there's a man down there guarding one of the mines, one of his  
3     own personal mines, as I understand it, and there's been a lot  
4     of vandalism and kids and so forth from the reports that I  
5     received from the authorities and this gentleman is -- does  
6     guard that mine, yes.

7           Q     Has he been described to you as a very erratic  
8     behaving individual by the local law enforcement?

9           A     Well, the last time that I talked to him, no, he  
10    was described that way by Mr. Creech. But, not so much by those  
11    people. They did say that he had shot at people, or shot in  
12    the vicinity of people when they came around his mine; that he  
13    ran the kids off.

14           MR. ROBINSON: I have nothing further.

15           MR. THOMAS: We have nothing further, Your Honor.

16           THE COURT: You may step down.

17           THE WITNESS: May I be excused?

18           MR. ROBINSON: Yes, Your Honor.

19           MR. THOMAS: Yes, Your Honor.

20           THE COURT: Yes, you may be excused if you want to.

21           MR. ROBINSON: Your Honor --

22           THE COURT: Before we proceed, could I see Counsel at  
23    the bench just a minute.

24                   (Unreported conversation between Court and Counsel.)

25           MR. ROBINSON: Your Honor, as I have advised the Court,

1 we have something -- some difficulty with Dr. Heyrend and  
2 Dr. Hurst in this matter and won't be able to bring them in  
3 until Monday and I apologize to the Court. I apologize to the  
4 jury that we weren't able to schedule this to avoid taking  
5 extra time. However, I have suggested to the Court that,  
6 possibly tomorrow, we can get some of the instruction work  
7 done and it's my understanding the State wants to put on some  
8 rebuttal testimony this afternoon out of order and I do consent.

9 THE COURT: Well, I will just say for the benefit of  
10 Counsel to the jury, I think probably the jurors are aware of  
11 this from the voir dire examination. The case has gone a little  
12 faster than I think Counsel have really anticipated. So, we  
13 weren't expecting it to go this fast and that's why we get  
14 ourselves in this dilemma.

15 Do you want to proceed with some rebuttal witness  
16 out of order, then?

17 MR. THOMAS: Yes, Your Honor, we are prepared to do  
18 that at this time.

19 THE COURT: What this means, ladies and gentlemen, you  
20 understand the defendant isn't through with his case yet. He  
21 still has some witnesses that won't be here until Monday but,  
22 ordinarily, the procedure we'd follow, the defendant would  
23 finish with all his witnesses then he would rest and, then, the  
24 State would have the opportunity to put on rebuttal evidence.

25 Counsel have agreed here that the State can put on

1 some of their rebuttal evidence out of order in view of the  
2 fact that the defendant doesn't have his next witness here.  
3 So, you understand this isn't part of the defendant's case, this  
4 is part of the State's rebuttal case that, ordinarily, would  
5 come after the defendant had finished.

6 They are putting it on out of order now.

7 All right, you can call your rebuttal witness at  
8 this time, then.

9 MR. THOMAS: Call Gene Hilby.

10

11 GENE HILBY,  
12 produced as a witness by and on behalf of the plaintiff for  
13 rebuttal examination, being first duly sworn, took the stand  
14 and testified as follows:

15

16 THE COURT: Just a minute, I understand now you are  
17 stipulating to having this witness called out of order at this  
18 part of the State's rebuttal, is that right, Mr. Robinson?

19 MR. ROBINSON: That's correct, Your Honor.

20 THE COURT: Do you have any objection, Mr. Creech, to  
21 this procedure?

22 MR. CREECH: No, sir.

23 THE COURT: All right. Go ahead.

24

25

DIRECT EXAMINATION

BY MR. THOMAS:

Q. Mr. Hilby, would you state your name and address, please.

A. Gene Alvin Hilby, 117 Calico Drive, Kelso, Washington.

Q. And what is your age?

A. Twenty-seven.

Q. Mr. Hilby, just preliminarily I'd like to ask if you have ever been convicted of a felony previous to this time?

A. Yes.

Q. And would you tell the jury what that was?

A. Possession of marijuana in 1970 and hindering prosecution in 1974.

Q. Have you ever seen the defendant in this case, Thomas Eugene Creech, before?

A. Yes.

Q. And do you see him here in this courtroom at the present time?

A. Yes.

Q. Would you point him out, please, and describe what he's wearing.

A. He's the defendant. He has a black shirt on and plaid pants.

1 MR. THOMAS: May the record indicate, Your Honor, that  
2 the witness had identified the defendant?

3 THE COURT: Yes, it may.

4 Q BY MR. THOMAS: Mr. Hilby, could I ask you to keep  
5 your voice up just a little bit higher so that everybody can  
6 hear.

7 When did you first meet the defendant,  
8 Thomas Creech?

9 A In early August, 1974.

10 Q And where was that?

11 A At my house in Portland, Oregon.

12 Q And would you describe what happened on that  
13 occasion?

14 A I was sitting at home watching a football game and  
15 Linda Crandall brought Tom Creech by and introduced me to him  
16 as -- his name was Gene something.

17 Q Did Linda Crandall come into your house with  
18 Mr. Creech?

19 A Yes. She was presently staying at our house.

20 Q And would you describe what happened after  
21 Miss Crandall and the defendant came into your house?

22 A I was watching the football game and drinking beer  
23 and I was introduced to Mr. Creech, carried on a brief  
24 conversation and watched the game and talked.

25 Q And talked, did you say?



1 A. Um-hmm.

2 Q For how long did that conversation go on?

3 A An hour, maybe two hours.

4 Q And did anything happen after that?

5 A No. Creech and Linda left.

6 Q They left your house?

7 A Um-hmm.

8 Q Did you -- when was the next time, if anytime,

9 when you saw Mr. Creech?

10 A Two days later at 2:30 in the morning my telephone

11 rang and Linda came upstairs and told me that Creech was on the

12 telephone and he was in trouble.

13 Q Now, was Linda Crandall residing in your house

14 at that time?

15 A Yes.

16 Q Were there other persons who resided there?

17 A My wife and my son.

18 Q And in which part of the house did you stay?

19 A Upstairs in the back bedroom.

20 Q And where was Linda Crandall's room?

21 A In a little room off the dining room, a small

22 bedroom, or den.

23 Q On the same floor of the house?

24 A On the main floor.

25 Q And would you describe what happened after

1 Miss Crandall came up after the phone rang at 2:00 or 3:00 in  
2 the morning.

3 A She said that Creech was at a church in northwest  
4 Portland and that he had been stabbed or -- by some bikers and  
5 that he needed medical attention and to go to the hospital.

6 Q What happened then?

7 A I took a first-aid box and went down to the church.

8 Q How did you get to the church?

9 A I drove my truck.

10 Q And what period of time did it take you to get to  
11 the church?

12 A About 10 or 15 minutes.

13 Q Did Miss Crandall actually use the word "stabbed"  
14 in describing Creech's difficulty?

15 A I think so.

16 Q What happened after you arrived at the church?

17 A I parked my truck on Marshall Street -- the church  
18 was on 21st and Marshall, about three cars from the curb and  
19 from the corner of 21st and Marshall.

20 Q Did I ask you what church this was?

21 A No.

22 Q What was the name of the church?

23 A St. Mark's Episopal.

24 Q And that is located where?

25 A On Northwest 21st and Marshall, Portland, Oregon.

1 Q And if you'd go on and describe what next happened  
2 after you arrived there.

3 A Tom came up to me at the truck and I asked to see  
4 where he had been stabbed, or hurt. He showed me a little  
5 mark on the side of his stomach.

6 Q Which side was it?

7 A I think it was his right side.

8 Q And did you see more than one mark?

9 A Not that was red or anything.

10 Q Would you describe the mark that he showed you?

11 A It was about an inch and a half, inch and a quarter  
12 long. It looked like a scratch that had -- had healed up and  
13 the scab had been removed from it. It wasn't bleeding, or  
14 there wasn't blood on his shirt or anything.

15 Q Did you see any other persons in the immediate  
16 vicinity besides Mr. Creech at that time?

17 A Not at that time.

18 Q What happened next?

19 A He asked me for some type of weapon.

20 Q Did he tell you why he wanted a weapon?

21 A I -- just that these three bikers were still inside  
22 the church.

23 Q Did you see any bikers at that time.

24 A I didn't see any motorcycles or anything in the  
25 neighborhood, no.

1 Q Did you -- what did you do next; if anything?

2 A I gave him a rifle out of the back of my truck.

3 Q And why did you give him the rifle?

4 A Because, out of all the things in my truck, that  
5 is what he wanted.

6 Q What else was in your truck?

7 A Bunch of logging equipment and carpenter tools, a  
8 bed.

9 Q Did you have any reason why you were carrying a  
10 rifle in your truck?

11 A No.

12 Q What did you use the rifle for?

13 A I didn't, really, use the rifle. I would have  
14 used it for deer hunting, but I didn't have a license or  
15 anything.

16 Q What happened after Mr. Creech took the weapon, the  
17 deer rifle?

18 A He wanted to go inside the church and bring these  
19 guys out.

20 Q Did he say anything to you? Did you have any  
21 conversation around that time?

22 A Yeah. I told him I wasn't going to go into the  
23 church and hassle with anybody.

24 Q And what was his response to that, if anything?

25 A Told me to wait outside.

1 Q Do you remember any of the words he used in that  
2 conversation?

3 A Not exactly, just that he wanted me to wait  
4 outside. Then, he went into the church.

5 Q Was he carrying the weapon when he entered the  
6 church?

7 A Yes.

8 Q What did you do then?

9 A I walked from my truck around to the front of the  
10 church and I walked back and forth in front of this little  
11 courtyard a couple of times.

12 Q Now, which little courtyard are you referring to?

13 A The church is shaped like an "E" without the  
14 middle line in the "E". In the center of the church is a  
15 courtyard.

16 Q Did you see the defendant at any time after he  
17 entered the church?

18 A Just his back going up the stairs.

19 Q And for what period of time could you see him in  
20 that position and what did he appear to do?

21 A Just walking up the flight of stairs.

22 Q Did he still have the weapon?

23 A Yes.

24 Q What happened next?

25 A I noticed two guys with their heads sticking out

1 of the window across the street talking.

2 Q Where were you at that point?

3 A Right in front of the church.

4 Q And did you remain in the same position after you  
5 saw the two people across the street?

6 A No. I walked off to -- into the courtyard where  
7 there was a lot of bushes and stuff.

8 Q And then what happened?

9 A Then I heard the gun go off and saw the flash of  
10 light.

11 Q Where did you see the flash of light?

12 A I was looking at the guys across the street and it  
13 was like a camera flash on all the windows over there.

14 Q Could you see where the flash was coming from?

15 A From inside the church.

16 Q And did you say that you heard something at that  
17 time?

18 A Yeah. I heard the rifle echo through Northwest  
19 Portland.

20 Q Then what did you do at that point?

21 A I got really scared and went and got in my truck  
22 and left.

23 Q Where did you go?

24 A About three blocks down the street.

25 Q Then what happened?

1           A.    I didn't know exactly what happened; if there were  
2 three people in the church with Mr. Creech or what was  
3 happening.

4                   I went back across the street from the church and  
5 waited in my truck to see if anybody would come out.

6           Q    And how long did you wait there?

7           A.    I don't know the exact length of time. I was  
8 pretty nervous and, you know, I didn't know what was really  
9 happening. It seemed like five or ten minutes, could have been  
10 less.

11          Q    Let me go back just a moment.

12                   How long was it after the defendant entered the  
13 church before you heard the shot and saw the flash?

14          A.    Be a minute, maybe two minutes.

15          Q    Now, after you had waited in the truck following  
16 your return to the church, what happened then?

17          A.    Mr. Creech came out of the church, stood on the  
18 steps and looked around and, then, proceeded to walk over to my  
19 truck.

20          Q    Did he have the rifle with him at that time?

21          A.    Yeah, under his arm like -- just like it was  
22 nothing, like he was in the woods or something.

23          Q    Did you observe his behavior and demeanor at that  
24 point?

25          A.    When he got to the truck he told me that he had

1 just killed somebody and he didn't show any emotions or any  
2 kind of fear, or I -- or didn't seem to be bothered by it at  
3 all.

4 Q Did he say anything to you besides the fact that he  
5 had killed someone?

6 A He wanted to go back in the church and bring these  
7 other two guys -- or find these other two guys.

8 Q Did he ask you to do so?

9 A Yeah.

10 Q What did you do then?

11 A I didn't want to go into the church.

12 Q Did you eventually go into the church?

13 A Yeah. I didn't want to stand there and argue with  
14 him either.

15 Q And what happened when you did?

16 A I walked into the church, up the stairs and turned  
17 left and went into this room. It was kind of like a lounge or  
18 something in the church and there was a guy sitting on the  
19 couch. He looked like he was just -- he was just sitting there,  
20 looked like he was loaded or something.

21 Q Did you notice anything unusual about him; apart  
22 from what you've described?

23 A He had a red mark on his chest.

24 Q Do you know what it was?

25 A Bullet hole.



1 Q What happened then?  
2 A I asked Creech if he was dead.  
3 Q And then what happened?  
4 A He said yes.  
5 Q Did he do anything at that point?  
6 A I said "Are you sure?" Then he went over and  
7 slapped the guy twice.  
8 Q Where did he slap him?  
9 A On his face.  
10 Q Go on, if you would, and describe what happened  
11 after that.  
12 A He wanted me to help him move the body down to the  
13 river and -- I don't know, the whole situation seemed to be  
14 beyond reality to me.  
15 I argued with him, I didn't want to put anybody in  
16 my truck. I wanted to leave the church. Then he decided to go  
17 to his room and get a blanket and he pulled the body off the  
18 couch and wrapped it in a blanket and, then, asked me to carry  
19 it down the hall.  
20 Q Did you do so?  
21 A Yes.  
22 Q What was your reaction at this time to what had  
23 happened?  
24 A I couldn't react. I could think, but I couldn't  
25 move. I just sort of did everything he said.

1 Q What happened next?

2 A He locked the door in his bedroom and he wanted to  
3 search the church. He kept telling me that there was more  
4 bikers in the church; that there was only one way out of the  
5 church and, if I hadn't seen anybody come out, that they had to  
6 still be in there.

7 Q Did you see anyone else around?

8 A No.

9 Q Did you see any weapon, besides the rifle, in the  
10 vicinity of the deceased person?

11 A No.

12 Q Do you know who the deceased person was?

13 A I do now. I didn't know who he was at that time.  
14 I didn't know him then.

15 Q Where did you find out who he was?

16 A Through the Portland police.

17 Q And what name did they give you?

18 A William James Dean, 22 years old.

19 Q After you left the church with Creech, what  
20 happened?

21 A He had told me at the church that the guy was  
22 Freddy Richardson and that him and Freddy did a contract on  
23 somebody in Arizona and Freddy had a suitcase at the bus station  
24 that he wanted to go there and get the money.

25 Q Did he give you any other information about the

1 supposed contract?

2 A. He said that Freddy had ripped him off and --  
3 that was about it. The guy that he killed was some dope  
4 dealer in Arizona.

5 Q. During the time you were in the church, was the  
6 rifle in the defendant's hands at all times?

7 A. No.

8 Q. Was there any possibility that you could have gotten  
9 it away from him?

10 A. Sure.

11 Q. Why did you not do so?

12 A. He just shot somebody in cold blood. I didn't want  
13 to.

14 Q. Were you afraid at that point?

15 A. Yeah. I didn't want to argue with him at all.

16 Q. Did you then proceed in your truck to the bus  
17 station?

18 A. Yes.

19 Q. Was there any conversation on the way?

20 A. Yeah, he -- we talked about making up some kind of  
21 story.

22 Q. Whose idea was it to make up some kind of story?

23 A. Tom's.

24 Q. Did he tell you what kind of story he wanted to  
25 make up?

1           A     He had told me while we were in the church that the  
2     guy had gone for a gun, or something, and that's why he shot  
3     him.

4                     He wanted to carry that story out farther; that  
5     there had been some kind of fight there.

6           Q     Did you have any indication that any of that was  
7     true?

8           A     From where the guy was sitting on the couch, I  
9     don't think the guy even had a chance to try and stand up, or  
10    move.

11          Q     Did you see -- was any knife ever exhibited at any  
12    time in connection with the wound that Mr. Creech showed you?

13          A     No.

14          Q     Did you eventually in the truck as you were driving  
15    to the bus station?

16          A     Yes.

17          Q     What happened then?

18          A     Creech picked up a suitcase and, then, we got back  
19    in the truck and the only place I could think of going, I  
20    wanted to go back home and go to bed.

21          Q     And what happened next?

22          A     On the freeway back to my house he went through the  
23    suitcase looking for something. I suppose it was the money and  
24    there was nothing in the suitcase but clothes and he threw it  
25    out the window.

1 Q Was there any conversation during this trip?

2 A Yeah, I know, telling him how freaked out I was  
3 and that I really didn't know what to do and -- I don't  
4 remember exactly what he said to me there.

5 Q Then did you proceed to your own home?

6 A Yes.

7 Q What happened there?

8 A We got to my house, I think he went to the  
9 bathroom or something and I talked with Linda Crandall for a  
10 minute and I told her what had happened at the church and that  
11 I didn't want him around there and that he wasn't going to let  
12 me stay at the house.

13 He told me that I couldn't stay there, it would be  
14 best if I was somewhere else.

15 Q The defendant told you that?

16 A Yes.

17 Q Do you remember the words he used, or some  
18 approximation of the words he used of telling you that?

19 A If I said anything there would be -- a lot of  
20 trouble would come down.

21 Q What did you interpret that to mean?

22 MR. ROBINSON: Objection, Your Honor, conjecture,  
23 drawing conclusions.

24 THE COURT: Sustained.

25 Q BY MR. THOMAS: What did he tell you with respect

1 to your leaving? Did he give you any time to do that?

2 A. He handed me the rifle and told me that he wanted  
3 me to throw it in the river.

4 Q. Did you do so?

5 A. No.

6 Q. What did you do with the rifle?

7 A. I took the rifle with me over to Southwest Portland.  
8 I wrapped it up in a coat, gas station coat, and gave it to -- a  
9 neighbor, Greg Stocker I think was his name.

10 Q. Did you tell him anything about the gun?

11 A. I told him that it had been used in -- I told him  
12 the story that it had been used in some sort of fight and that  
13 it killed somebody and not to touch it or mess with it, just  
14 hide it somewhere.

15 Q. Why did you tell him that it had been used in a  
16 fight?

17 A. That's the story that Creech and I had decided on.

18 Q. Now, did you leave your house the same night and go  
19 someplace else?

20 A. Yes.

21 Q. Why did you do that?

22 A. Because I didn't think I should stay there.

23 Q. Did he threaten you?

24 A. No -- from what he said to me, yeah, I didn't want  
25 to argue with him at all. I didn't want to test and see who

1 was strongest or anything.

2 Q When was the next time you saw the defendant?

3 A After that?

4 Q Yes.

5 A Two nights later.

6 Q And what was the occasion, if you could describe it?

7 A Him and Linda Crandall came over to this house that  
8 I was staying at, in my next-door neighbor's Dodge van.

9 Q Do you remember what day this was?

10 A I think it was on a Friday night.

11 Q A Friday night?

12 A Yes.

13 Q And what month was that?

14 A August.

15 Q Do you remember the date or any approximation of  
16 it?

17 A Not exactly.

18 Q Do you recall the date of the shooting that  
19 you've described?

20 A Not the exact date, no.

21 Q On this Friday night when Creech and Miss Crandall  
22 came by your house, what happened after they arrived there?

23 A There was a long flight of stairs, I walked down  
24 the stairs and talked to them in the van. They wanted me to  
25 go to the church and help them move the body. I went and got

1 some rope and a pistol and I gave them to Tom and told him I  
2 didn't care what he did. I wanted him to get out of my house  
3 and away from me.

4 Q Gave him a pistol and some rope? What was the  
5 purpose of the rope?

6 A When I was in the Service I had seen a few bodies  
7 after a couple days and they swell up and smell and I figured  
8 he could tie it up in the blanket and drag it down the stairs  
9 for all I cared.

10 Q Why did you give him the pistol?

11 A He wouldn't take money or anything. I didn't know  
12 what else to give him. I just wanted him out of my life.

13 Q Did you think that that would appease him in some  
14 way, to give him a pistol?

15 A Yeah. It did.

16 Q What did you do after that?

17 A The next day I went to the police.

18 Q And did you -- what did you do when you went to  
19 the police?

20 A Told them I knew who Thomas Eugene Creech was and  
21 that I was in the church in Northwest Portland.

22 Q Did they know about the body there by that time?

23 A Yeah, they discovered it.

24 Q Talk to anybody about the crime before you went  
25 to the police?



1           A.     I never told anybody the truth about it. I told --  
2     the people I was staying with wondered what was wrong with me  
3     because I wasn't acting right. I was nervous, I wouldn't  
4     talk to anybody. I was really scared.

5           Q.     How much time during this period that you've  
6     described did you spend with Mr. Creech altogether? Do you  
7     recall that?

8           A.     Maybe a total of four hours.

9           Q.     When was the last time you saw him?

10          A.     That Friday night.

11          Q.     Had you known him before you met him here in  
12     Portland on this occasion?

13          A.     No.

14          Q.     Have you had any contact with him since?

15          A.     Not since I got here to Idaho.

16          Q.     I'm talking about the period before you came to  
17     the trial, now. Did you have any contacts with him during  
18     that time?

19          A.     No. I was in jail for four months.

20          Q.     Was the pending charge that you are presently  
21     serving time for related to this case?

22          A.     Yes.

23          Q.     Mr. Hilby, that is State's Exhibit 69. Do you  
24     recognize that?

25          A.     Yes.

1 Q And where did you -- where have you seen that  
2 before?

3 A Mr. Robinson handed it to me.

4 Q When was that?

5 A Two days ago.

6 Q And where did Mr. Robinson hand you the letter?

7 A In the hallway out there -- no, I received the  
8 letter -- I was standing in the back of the courtroom then and  
9 Mr. Robinson gave it to an officer, or somebody, I'm not sure  
10 exactly who gave me the letter.

11 Q Mr. Hilby, were you frightened about coming here to  
12 testify in this trial?

13 A Yes.

14 Q Why?

15 A Because from what I've done in PORTland and in  
16 assisting him after the murder and by the fact that it was my  
17 gun, wondering if other charges could be brought against me or  
18 not.

19 Q Have you been threatened by Mr. Creech as a result  
20 of coming here to this trial?

21 MR. ROBINSON: Objection, calling for a conclusion and  
22 conjecture.

23 THE COURT: Sustained.

24 MR. THOMAS: No further questions, Your Honor.

25 MR. ROBINSON: May we have a short recess before

1       commencing, Your Honor?

2               THE COURT: All right. We'll take a ten-minute recess,  
3 ladies and gentlemen. If you will remember the admonition,  
4 don't discuss the case and keep your minds open.

5               (Recess taken.)

6               (Jury re-entered the courtroom.)

7       THE COURT: Show the jurors are all present.

8       MR. ROBINSON: May I proceed, Your Honor?

9       THE COURT: Yes.

10

11                               CROSS EXAMINATION

12       BY MR. ROBINSON:

13               Q     Mr. Hilby, the testimony you just gave that's  
14 verbatim as to the transcript and record of the statement you  
15 gave to the Oregon -- Portland, Oregon police in August of  
16 1974; isn't it?

17               A     Yeah.

18               Q     Did you read that transcript before coming here  
19 today several times?

20               A     No.

21               Q     When was the last time you read it?

22               A     Last night.

23               Q     Refresh your memory?

24               A     Yeah, I guess, just looking over it.

25               Q     And how many different stories and statements prior

1 to that had you given about the circumstances of Billy Dean's  
2 death at the church in Portland, Oregon?

3 A. I don't understand what you mean.

4 Q. How many different versions of your involvement in  
5 Billy Dean's death did you give prior to the one you gave the  
6 Portland, Oregon police?

7 A. One.

8 Q. Would you tell us what version that was?

9 A. The guy I gave the rifle to, I told him that there  
10 was a fight at the church and somebody had been shot with that  
11 gun.

12 Q. And did you tell Linda Crandall something  
13 different than what you told the man you gave the rifle to?

14 A. I don't remember.

15 Q. And did you tell your wife, Becky, a different  
16 version than what you told either the police or the man that  
17 you gave the rifle to?

18 A. No.

19 Q. When were you born?

20 A. February, 1948.

21 Q. Where?

22 A. Portland, Oregon.

23 Q. And what was the extent of your formal education?

24 A. Twelfth grade.

25 Q. And where did you go to school?

1 A Ulysses S. Grant High School, Portland.  
2 Q You graduated after going all four years there?  
3 A No, I went into the Service.  
4 Q What branch of the Service?  
5 A United States Navy.  
6 Q What year did you go into the United States Navy?  
7 A 1965.  
8 Q And how long did you serve?  
9 A Two years and a couple months on active duty.  
10 Q Did you have any special training while in the  
11 Service?  
12 A Yeah.  
13 Q What was that?  
14 A Steel Turbine Mechanics and Nuclear Power School.  
15 Q What kind of grades did you receive while in high  
16 school?  
17 A C's and D's.  
18 Q But, you graduated?  
19 A Took a GED test while I was in the Service.  
20 Q All right. And what was the nature of your formal  
21 education for this special training, or special job that you  
22 had while in the United States Navy?  
23 A I don't understand your statement.  
24 Q Did you have some formal training?  
25 A I went to school, yes.

1 Q How did you fare in the schools as far as grades  
2 are concerned?

3 A Pretty good.

4 Q What type -- did you go into the Service right  
5 after coming out of high school?

6 A Yes -- before I got out of high school.

7 Q Before you got out of high school, completed high  
8 school by the GED test?

9 A Yes.

10 Q What type of jobs did you follow after you were  
11 discharged from the Navy?

12 A A machine shop and a couple salesman jobs.

13 Q Selling what?

14 A Clothes, tried vacuum cleaners, encyclopedias.

15 Q Make a living at doing those jobs?

16 A Not very good.

17 Q When were you and Becky married?

18 A In 1967.

19 Q In Oregon?

20 A Yes, Portland.

21 Q Do you have more than one child?

22 A No.

23 Q And when was that child born?

24 A December of 1968.

25 Q So, in 1974, August, that child was six years of

1 age?

2 A. Five years old.

3 Q. Between five and six, then?

4 A. Yes.

5 Q. All right. Had you previously married before  
6 you married Becky?

7 A. No.

8 Q. Are you a member of the Gipsy Jokers?

9 A. No.

10 Q. Have you ever ridden with any bike club  
11 organizations?

12 A. No.

13 Q. You say this conviction of a felony for possession  
14 of marijuana was in 1970?

15 A. Yes.

16 Q. And the conviction on -- what charge was that?  
17 Hindering prosecution?

18 A. Yes.

19 Q. And you pled guilty to that charge subsequent to  
20 the Billy Dean involvement?

21 A. Yes.

22 Q. And now, you say two or three days before the  
23 Billy Dean occurrence was the first time that you met  
24 Thomas Eugene Creech, the man sitting next to me here?

25 A. Yes.

1 Q And that was for a period of how long, 20, 30  
2 minutes?

3 A Couple of hours.

4 Q Couple of hours? And during that period of time  
5 you and he had a conversation in your apartment?

6 A House.

7 Q You were renting a house at that time, or buying?

8 A Buying.

9 Q All right. And what job were you working at at  
10 that particular time?

11 A I was logging.

12 Q Logging?

13 A Yes.

14 Q Had some days off, did you?

15 A I think it was in the early evening or early  
16 afternoon. I went to work at 4:30 in the morning and got off  
17 at 3:30 or 4:00.

18 Q But, the totality of your acquaintance with  
19 Thomas Eugene Creech prior to this 2:30 a.m. receiving a  
20 telephone call -- or Linda Crandall's message, was that two  
21 hours, some two days before that; two or three days before that?

22 A Yes.

23 Q Who all was living in your home at that time?

24 A Myself, my wife, my son and Linda Crandall.

25 Q And what were the living arrangements? Would you



1 describe the house and where -- who was staying in that house?

2 A. Two bedrooms upstairs, living room, dining room,  
3 a kitchen and a den and bathroom downstairs and basement.

4 My wife and I stayed in the back bedroom upstairs.  
5 My son had the front bedroom upstairs and Linda Crandall was  
6 sleeping in the small bedroom off the den, or off the dining  
7 room.

8 Q All right. Did you have an extension of your  
9 phone in your bedroom?

10 A. Yes.

11 Q And where is the phone downstairs?

12 A. It was in the dining room.

13 Q And you have to come -- the bedroom off of the den,  
14 through the den to the dining room to get to the phone?

15 A. The bedroom and den are the same room.

16 Q Are the same room? How long had Linda Crandall  
17 been living there prior to this 2:30 a.m. date that you  
18 received the phone call?

19 A. About a week or so, maybe a couple days more than  
20 a week.

21 Q What is her particular relationship to you and  
22 your wife, Becky?

23 A. I met her a couple years ago through a bunch of  
24 friends of mine, lived out in Gresham.

25 Q Lived out in Gresham?

1 A. Yes, Gresham, Oregon.

2 Q. Where is that located from Portland?

3 A. About 20 miles east of Portland.

4 Q. Is Linda Crandall someone's old lady from a  
5 biker's organization?

6 A. She was Peter Steven's girl friend. He's not a  
7 biker.

8 Q. Where was he at that time?

9 A. McNeil Island Federal Penitentiary.

10 Q. All right. Now, it's your testimony that at  
11 2:30 a.m. on that day a phone rang and Linda Crandall answered  
12 it and you didn't answer your upstairs phone, the extension?

13 A. No.

14 Q. That isn't your testimony, or did you answer the  
15 phone at all that morning?

16 A. I don't remember exactly. I might have talked to  
17 him on the telephone. I'm not sure. Linda came upstairs and  
18 said that he had been hurt and that's what woke me up.

19 Q. Linda was the one that woke you up?

20 A. Yes.

21 Q. And you don't remember whether you talked to  
22 Tom Creech those early morning hours that day or not?

23 A. Just woke up -- no, I don't remember for sure or  
24 not.

25 Q. How often do you get a call in the early morning

1 hours about someone being beaten up or knifed?

2 A. I never have before.

3 Q And have you since?

4 A. No.

5 Q Do you remember at this time whether or not you  
6 talked to Tom Creech in the early morning hours?

7 A. I could have. I'm not sure.

8 Q Do you remember what he said and what you said?

9 MR. THOMAS: Objection, Your Honor, that assumes a  
10 fact that the witness just denied.

11 THE COURT: Overruled.

12 THE WITNESS: I don't remember exactly whether it was  
13 him or Linda that talked to me.

14 Q BY MR. ROBINSON: All right. And would you tell us  
15 exactly what you remember Linda telling you?

16 A That he had been stabbed and there were three  
17 bikers at the church downtown and he needed me to go down and  
18 pick him up and take him away from the church.

19 Q At this time what guns did you own and have  
20 possession of?

21 A. I had a 30/30 deer rifle, sort of an old cap and  
22 ball rifle, a .44 Magnum pistol, I think I might have had a  
23 32/20 Marlin lever action. I'm not sure whether I had that  
24 then or not.

25 Q Do you have ammunition for the 30/30?

1 A. Yes.  
2 Q Did you have ammunition for the .44?  
3 A. Yes.  
4 Q At 2:30 a.m. when Linda told you this information,  
5 where was the 30/30 rifle?  
6 A. It was in the house.  
7 Q Where in the house.  
8 A. Hanging up.  
9 Q What room?  
10 A. Living room above the entrance hallway.  
11 Q On a gun rack?  
12 A. Just on a nail.  
13 Q Where was the .44?  
14 A. In the closet.  
15 Q And you are not sure whether you had the lever  
16 action Marlin?  
17 A. No.  
18 Q Where was the cap and ball rifle?  
19 A. Above the doorway in from the living room into  
20 the dining room.  
21 Q Did you have any other weapons there in the house?  
22 A. No firearms.  
23 Q Did you make any attempt to call the Portland  
24 police about this circumstance?  
25 A. No.

1 Q Why?

2 A I didn't think anything was too strange about it.

3 Q Why didn't you think that there was anything

4 strange about those circumstances at 2:30 a.m. that morning?

5 A Well, all I was to do was go down to the church

6 and pick him up and get him away from that area.

7 Q Did you anticipate you were going to run into

8 three bikers?

9 A I thought I might see them.

10 Q Did you call -- do you have any other friends that

11 you normally would lean on or ask to aid and assist you in

12 circumstances of this nature?

13 A If I was assured of some type of violence, I might

14 -- probably wouldn't go down there.

15 Q Well, how about the next-door neighbor? Is he a

16 good friend; the one that the vehicle was borrowed from?

17 A Pardon?

18 Q The one that the Dodge vehicle was borrowed from

19 later?

20 A He was just a neighbor. I didn't know him very

21 well.

22 Q Did you ask anyone to go with you to the church

23 in response to this telephone call?

24 A No.

25 Q Linda Crandall go with you?

1 A. No.

2 Q. Becky go with you?

3 A. No.

4 Q. Did you take both the 30/30 and the .44 with you?

5 A. No.

6 Q. Just the 30/30?

7 A. Yes.

8 Q. With ammunition?

9 A. It was already loaded.

10 Q. How many rounds was it loaded with?

11 A. I don't know.

12 Q. What does it hold?

13 A. I don't know that either.

14 Q. Your testimony is, you left the .44 revolver in

15 the closet?

16 A. Yes.

17 Q. And the location of your home was approximately 15

18 minutes from the location of that Episcopal church?

19 A. Yes.

20 Q. And, as I understand your testimony, you pulled up

21 on a side street next to the church and Thomas Eugene Creech

22 came out of the church, across the street to talk to you while

23 you were still in your car?

24 A. He didn't have to come across the street. I was

25 on the same block as the church.

1 Q And on the same side of the street?  
2 A Yes.  
3 Q Parked headed in the proper direction? It's a  
4 two-lane street there; isn't it?  
5 A Yes.  
6 Q And you were headed in the proper direction when  
7 you were next to the curb?  
8 A Yes.  
9 Q Did Tom get in and sit down and talk to you?  
10 A I think so.  
11 Q Prior to that date, had you ever met Billy Dean?  
12 A No.  
13 Q Did you -- had you ever had any information that  
14 Billy Dean was carrying dope for sale?  
15 A No.  
16 Q Then, after talking with Tom -- first of all, what  
17 was the exact conversation that you can remember between  
18 yourself and Tom Creech on that occasion?  
19 A That morning at the church?  
20 Q Yes.  
21 A I asked him where he was stabbed and what was  
22 going on.  
23 Q What else?  
24 A He wanted to know if I had a weapon.  
25 Q And you told him what?

1 A I told him "In the back of the truck".  
2 Q Back in the bed of the -- is this a pickup?  
3 A Yes.  
4 Q Open pickup?  
5 A With a canopy.  
6 Q It had a camper-like on the back of it?  
7 A Just a canopy.  
8 Q Pardon?  
9 A A canopy.  
10 Q Well, would you describe that?  
11 A It's an insulated shell. It fits over the back  
12 of a truck.  
13 Q Made out of hard material or canvas?  
14 A Hard material.  
15 Q Did it have doors on the back of it?  
16 A Yes.  
17 Q Was the motor running while you were having the  
18 conversation with Tom Creech?  
19 A Probably. It was raining out.  
20 Q All right. Did you shut the motor off when you  
21 went back to unlock the back and get the 30/30 and give it  
22 to Tom?  
23 A I'm not positive. Probably.  
24 Q Did you make any attempt to drive away from there  
25 after you were asked for a weapon?



1           A.    No.  I told him that we -- I didn't want to stick  
2 around.

3           Q.    Just going to give him a weapon and drive away?

4           A.    No.  I didn't think it was -- I didn't think he  
5 should go into the church.

6           Q.    At this particular point, was there any knowledge  
7 that you had of Tom Creech killing anyone and giving you a  
8 reason to be afraid?

9           A.    No.

10          Q.    Did you give him any extra rounds for that 30/30?

11          A.    No.

12          Q.    Did you get out of the car and accompany him into  
13 the church?

14          A.    No.

15          Q.    Were you and Linda Crandall present in the guild  
16 room when Billy Dean was shot?

17          A.    No.

18          Q.    Were you?

19          A.    No.

20          Q.    Your testimony is that Tom went up by himself, you  
21 stayed outside, heard a shot fired, saw the flash of light and  
22 there were two men in the apartment across the street gazing out  
23 their window; is that your testimony?

24          A.    Yes.

25          Q.    Did you know you had witnessed a murder, or been a

1 part of and had knowledge of a murder at that time?

2 A. When the gun went off.

3 Q. Pardon?

4 A. When the gun went off.

5 Q. When the gun went off what did you think had  
6 happened?

7 A. I thought Tom had been shot.

8 Q. That Tom had been shot? Did you react to that by  
9 going in to find out?

10 A. Not -- no.

11 Q. What did you do?

12 A. I figured if there were three guys in there and  
13 they shot Tom I wasn't going to stick around and get shot  
14 either.

15 Q. You must have thought that was a possibility when  
16 you took a weapon along with you to go down and help Tom too,  
17 didn't you?

18 A. A possibility of getting shot?

19 Q. That the three bikers were armed and might shoot  
20 somebody?

21 A. No.

22 Q. What was the purpose of the weapon?

23 A. Possibly to scare somebody if they tried to stop  
24 us from leaving or something.

25 Q. Was your reaction just to drive away three blocks?

1 A After the gun went off?  
2 Q Yes.  
3 A My reaction was to leave completely.  
4 Q And did you drive away?  
5 A I got about three blocks down the street.  
6 Q And then made a U-turn to come back?  
7 A Then I went around the block and came back up on the  
8 other side.  
9 Q Since you were gone could you tell whether there  
10 was anyone that had left the church?  
11 A Not for certain.  
12 Q You did tell Tom, though, that nobody came out;  
13 isn't that correct?  
14 A Yes.  
15 Q Did you tell Tom they could have come out while  
16 you were going around the block?  
17 A No.  
18 Q Then, your testimony is that it was -- took some  
19 arguing to get you to go up to the guild room, view the victim  
20 and watch the reaction of Tom Creech in slapping the victim's  
21 fact?  
22 A Yes.  
23 Q That's your testimony?  
24 A Yes.  
25 Q What kind of clothing was Billy Dean, the victim,

1 dressed in?

2 A. He had a T shirt, pair of Levis and I think some  
3 tennis shoes on.

4 Q. Where was the bullet hole?

5 A. In his heart.

6 Q. Was his clothing covered across the front with  
7 blood?

8 A. Not -- no, there wasn't a lot of blood there.

9 Q. Was there any blood there on the carpet in the  
10 guild room?

11 A. On the couch.

12 Q. On the couch? Where, behind the victim?

13 A. Yes.

14 Q. Any in front at all?

15 A. No.

16 Q. Now, you made the statement that your impression  
17 was that Billy Dean could not have been pulling a gun. That  
18 was your testimony?

19 A. Yes.

20 Q. Do you know whether he was standing or sitting down  
21 at the time he was shot?

22 A. Sitting down.

23 Q. Do you know that he was sitting down?

24 A. Yes.

25 Q. How do you know that?

1 A. Because he had a hole in his back and blood would  
2 have been on the wall too.

3 Q. You examined the area quite closely?

4 A. Not with a flashlight or magnifying glass.

5 Q. Not with a flashlight?

6 A. I just looked after the body was removed from the  
7 couch.

8 Q. Describe the conditions of light when you came  
9 into that room to view Billy Dean?

10 A. There was a light on in the hallway, there were no  
11 lights on in the room. The curtains were open and the light  
12 outside the building.

13 Q. And at that time you could determine in that light  
14 that the victim had been shot sitting down, not standing up?

15 A. Just from the way the guy was sitting, yes.

16 Q. Wasn't your description in your statement to the  
17 Portland police that the man appeared to be just sitting there  
18 with his head slumped and appeared to be asleep?

19 A. Yes.

20 Q. Then who suggested getting a blanket to move the  
21 body?

22 A. Nobody.

23 Q. Was the body moved by wrapping it in a blanket and  
24 moving it to Tom's sexton's quarters?

25 A. Yes.

1 Q Did you pick up one end and help him move the body  
2 onto the bed?

3 A I carried the feet.

4 Q You carried the feet? Under threat?

5 A He didn't say he was going to kill me, no.

6 Q He didn't make any threats at all, did he?

7 A No, I don't think so.

8 Q You voluntarily assisted in moving the body from  
9 the guild room into the sexton's quarters?

10 A I didn't give him any arguments.

11 Q At this point, Mr. Hilby, why had you involved  
12 yourself at all?

13 A I didn't know what to do. I couldn't make the  
14 decision to run or stay or I didn't know what to do.

15 Q Is that because of your drug addiction?

16 A No.

17 Q Were you intoxicated at the time?

18 A No.

19 Q Had you shot up?

20 A No.

21 Q Had you orally taken any windowpane, any other  
22 kind of dope?

23 A No, no.

24 Q How long prior to that particular time was it that  
25 you had taken some kind of narcotic drug?

1 A 5:00 a.m. in the morning.  
2 Q 5:00 a.m. the previous morning?  
3 A Yes.  
4 Q While at work?  
5 A On my way to work.  
6 Q On your way to work? What type of drug was that?  
7 A I was on the Methadone Program.  
8 Q Methadone Program of withdrawal? How long had you  
9 been on that program?  
10 A Two months.  
11 Q How long had you had the job?  
12 A About two months.  
13 Q Were you and Becky separated at this time?  
14 A We had been for a couple of days, yes.  
15 Q And who were you staying with? What was that lady's  
16 name?  
17 A Deloris and Richard.  
18 Q Deloris and Richard?  
19 A Yes.  
20 Q Is that a married couple?  
21 A They live together.  
22 Q Were you living with another woman?  
23 A No.  
24 Q How long did you stay there at the church that  
25 night -- that morning, I mean?

1           L.     Probably not more than a half hour altogether.  
2           Q     Was it still dark?  
3           A     Yes.  
4           Q     Did you take the gun, the 30/30 rifle with you  
5 when you left?  
6           A     The church?  
7           Q     Yes.  
8           A     No, Creech had it.  
9           Q     Creech had it? And you didn't have the .44 pistol  
10 with you?  
11          A     No.  
12          Q     When did he give you that gun?  
13          A     When did he give me the rifle?  
14          Q     Yes.  
15          A     When we got back to my house.  
16          Q     Where was it kept while you were riding to the  
17 bus depot?  
18          A     In the front.  
19          Q     Where in the front?  
20          A     I don't remember the exact spot.  
21          Q     You say you've lived all your life in Portland,  
22 Oregon?  
23          A     Yes.  
24          Q     Do you know where all the police departments are  
25 and all the precincts are?



1 A. Yeah.

2 Q. Did you ever at this time try to drive to one of

3 them?

4 A. No.

5 Q. You accommodated Tom Creech and drove to a bus

6 station to get back some suitcases, or to secure some

7 suitcases?

8 A. A suitcase.

9 Q. A suitcase? You knew what you were going there for

10 when you went on your way?

11 A. He said that Freddy Richardson had some baggage at

12 the bus station.

13 Q. And did he tell you what was in the baggage?

14 A. Said there was supposed to be \$10,000 in it.

15 Q. And did he offer to share that with you?

16 A. Yeah.

17 Q. What was your share going to be?

18 A. He didn't say.

19 Q. At this point did you know that you had been a

20 witness to a murder and that your testimony was dangerous to

21 Thomas Eugene Creech?

22 A. Then?

23 Q. Then.

24 A. I didn't -- I didn't think about that. I didn't

25 think about -- I wasn't thinking very clearly about anything

1 then.

2 Q Did you have any fear that he was going to waste  
3 you because you knew too much?

4 A I didn't take the chance of arguing with him.

5 Q Did you keep the motor running in the pickup when  
6 he went into the bus depot to get the suitcase?

7 A We both went in together.

8 Q Carry the rifle under the arm?

9 A No.

10 Q Left it in the pickup?

11 A Yes.

12 Q Did you lock it in?

13 A I don't think so.

14 Q How big is the bus depot there in Portland, Oregon?

15 A Half as big as this building.

16 Q Could you have left -- escaped at any time then?

17 A Yes.

18 Q To your knowledge Tom had been to your home just  
19 one time before that?

20 A Yes.

21 Q On that time do you remember whether it was  
22 daylight or dark when Linda Crandall first brought him over  
23 there?

24 A Daylight.

25 Q Daylight? Did you have any idea whether he knew

1 how to get back to your place?

2 A. I don't know if he remembers directions or not.

3 Q. Could you have gone to the police at that time and  
4 gotten back to your home before he could find his way there?

5 A. I wasn't going to take that chance.

6 Q. You weren't going to take that chance? Why?

7 A. Because I have a wife and son.

8 Q. Well, did you stay there at your home the rest of  
9 that morning?

10 A. No.

11 Q. Your story is and your testimony is that you were  
12 ordered out of your own home?

13 A. Yes.

14 Q. And you left your wife and your son?

15 A. Um-hmm.

16 Q. With a cold-blooded killer?

17 A. Yes.

18 Q. And Linda Crandall and you were gone for two days?

19 A. Yeah.

20 Q. And you didn't notify the police?

21 A. No.

22 Q. For fear that there would be some harm to your  
23 family?

24 A. Right.

25 Q. Is Becky here in this courtroom?

1 A Yes.

2 Q Is that the lady sitting behind Mr. McGee?

3 A Yes.

4 MR. ROBINSON: If we could have her stand, Your Honor.

5 THE COURT: Yes.

6 MR. ROBINSON: Becky Hilby.

7 Is this your wife Becky Hilby?

8 THE WITNESS: Yes.

9 MR. ROBINSON: Thank you.

10 Q BY MR. ROBINSON: What's your son's name?

11 A Donovan.

12 Q He's a young male child?

13 A Yes.

14 Q How long after this circumstance took place in

15 August of 1974 did you and Becky remain separated?

16 A Four days after it happened I went to jail, until

17 the end of November.

18 Q And you didn't go to the police until there was

19 a report in the newspaper that Billy Dean's body had been

20 discovered?

21 A No, that they were looking for Thomas Eugene Creech,

22 a picture on the front page of the newspaper.

23 Q And you knew that your neighbors would recognize

24 that picture and the person that had been to your home?

25 A No.

1 Q Let's see, now. When you left your home that  
2 morning under orders of Tom Creech, you took the rifle with  
3 you; is that correct?

4 A Yes.

5 Q Loaded or unloaded?

6 A Loaded.

7 Q You had the firearm, then?

8 A Yes.

9 Q Where was the .44?

10 A In my truck then.

11 Q Pardon?

12 A In my truck then.

13 Q While you went back home you got into the closet  
14 and got the .44?

15 A Yes.

16 Q Was it loaded?

17 A I don't think so at that time.

18 Q And when you left to go hide the rifle, you took  
19 both the 30/30 and the .44 with you?

20 A Yes.

21 Q Did you explain to Tom Creech how you operated the  
22 ball and cap rifle?

23 A No.

24 Q Was there any other gun in there?

25 A I don't think so.

1 Q Did he have any weapon?

2 A I don't know.

3 Q Would he have needed to call you for a weapon if  
4 he had had one?

5 MR. THOMAS: Objection, Your Honor. I think that calls  
6 for a conclusion not competent of the witness.

7 THE COURT: Sustained.

8 Q BY MR. ROBINSON: Now, Mr. Hilby, who did you take  
9 that rifle to to have them bury it?

10 A Greg Stocker.

11 Q And where does he live in relationship to your  
12 home in Portland?

13 A The opposite end of town.

14 Q And when did you take the rifle there?

15 A About 7:30 that morning.

16 Q And where was the gun hidden?

17 A It was put on a rafter in the basement of his  
18 house.

19 Q On a rafter?

20 A (No audible response.)

21 Q In the overhead?

22 A Yes.

23 Q Up next to the ceiling?

24 A Yes.

25 Q I thought your previous statement described that

1 a hole was dug and it was put in there and covered up.

2 A No.

3 Q Was it there when the police went with you to  
4 find it?

5 A Yes.

6 Q A hole had been dug and it was covered up?

7 A No.

8 Q It was still in the rafters?

9 A Wrapped in a coat.

10 Q Pardon?

11 A Wrapped in a coat.

12 Q And how long was that gun hidden in that basement  
13 before you took the police back to find it?

14 A Three days.

15 Q And during all this time did you have possession  
16 of your .44?

17 A It was underneath the seat of my truck.

18 Q Did you have ammunition with you for it?

19 A It had a gun belt. It was a western style gun  
20 and it had a cartridge belt.

21 Q Did you have any telephone contact with your wife  
22 or Linda Crandall or Tom during that two days of your absence?

23 A I think I talked to Linda Crandall.

24 Q When?

25 A The Friday afternoon that Tom and -- Friday evening

1 that Tom and Linda came by.

2 Q That Tom and Linda came by where?

3 A Southwest Portland.

4 Q But you never called your own home?

5 A I don't remember for certain. I'm not sure.

6 Q Well, you really weren't concerned about Becky or  
7 your son's safety during that period, were you?

8 A Was not concerned?

9 Q You were not concerned?

10 A Yes I was.

11 Q Was that concern shown so much as making a telephone  
12 call or to inquire about their safety?

13 A No.

14 MR. ROBINSON: I have no further questions of this  
15 witness, Your Honor.

16 THE COURT: Any redirect?

17 MR. THOMAS: No, Your Honor, no redirect.

18 THE COURT: You may step down.

19 MR. THOMAS: May Mr. Hilby be excused?

20 MR. ROBINSON: Yes, Your Honor.

21 THE COURT: Yes, you may be excused.

22 As I understand your situation now, you don't have  
23 any further witnesses right now, Mr. Robinson?

24 MR. ROBINSON: That's correct, Your Honor.

25 THE COURT: Do you have any further rebuttal you want to



1 put on out of order?

2 MR. THOMAS: Not at this time, Your Honor. I think that  
3 we have arrived at a stipulation with regard to the submission  
4 of a documentary exhibit, but we would not have any further  
5 witnesses at this time on rebuttal.

6 THE COURT: Did you want to present the stipulation at  
7 this time, or are you going to wait until you put on your  
8 regular rebuttal then?

9 MR. ROBINSON: I'd just as soon do it now if the Court  
10 wants to take the time.

11 THE COURT: It's all right with me.

12 MR. THOMAS: We have no objection to doing that. It's  
13 just that the material that we wanted to extract from here and  
14 that we considered being the subject of the stipulation, needs  
15 to be cut out of the rest of the document and we haven't got  
16 that done at this point.

17 MR. ROBINSON: Your Honor, I've examined that material  
18 and I understand that the Court is going to give an instruction  
19 to go along with the admission of this material relating to a  
20 transcript from a tape between Mr. Creech and Sheriff Palmer.

21 At this time we would stipulate that that excerpt  
22 from that document be admitted with the Court's instruction to  
23 the jury as to how it should be treated.

24 THE COURT: Very well.

25 MR. ROBINSON: And we can actually do the physical

1 submission of that and the Court's instructions at a later time  
2 if the Court so desires.

3 MR. THOMAS: We would like to read it in, then. It  
4 would cover the material that's on the tape submitted, edited  
5 tape submitted.

6 THE COURT: Was the stipulation that the transcript could  
7 be made part of the record and not the edited tape; is that it?

8 MR. ROBINSON: Yes, Your Honor.

9 MR. THOMAS: That's correct.

10 THE COURT: That would be, probably, easier to read it  
11 in if you want.

12 MR. THOMAS: If I may have just a moment.

13 THE COURT: If you are sure you are agreeing on which  
14 parts are going to be on the edited copy.

15 MR. THOMAS: Yes, Your Honor.

16 Your Honor, rather than read it in, we'll simply  
17 cut it out and submit it without reading it into the record if  
18 that would be --

19 THE COURT: So the jury will be able to identify it  
20 later on in relation to the record and the Court's instructions,  
21 as I understand you are talking about Exhibit 49, is that  
22 right?

23 MR. THOMAS: That's correct, Your Honor.

24 THE COURT: Did you want to identify for the record what  
25 the statement is?

1 MR. THOMAS: The statement relates to the interview of  
2 E.C. Palmer with Thomas E. Creech dated 4-28-75; the typewritten  
3 transcript of the tape recorded conversation made on that tape.

4 THE COURT: All right. All right, as to this particular  
5 exhibit, ladies and gentlemen, I'm going to instruct you that,  
6 first, this is still part of the State's rebuttal, you  
7 understand they are putting on out of order at this point. It  
8 isn't part of the defendant's case.

9 I will instruct you that this statement is being  
10 admitted for a limited purpose only. I will again remind you  
11 of this limited purpose in my instructions, but at this time I  
12 would advise you that this particular statement may not be  
13 considered by you as proof of the defendant's guilt, but may be  
14 considered by you only as it bears on the credibility of the  
15 defendant as a witness when he testified on the witness stand.

16 Now, that instruction only applies to this one  
17 exhibit, you understand. This may properly be considered by  
18 you only as it bears on the credibility of the defendant as a  
19 witness and not as direct proof of the defendant's guilt in  
20 this case.

21 MR. THOMAS: No further rebuttal at this point,  
22 Your Honor.

23 THE COURT: As I understand it, at this point, then,  
24 neither side would have any further witnesses until Monday  
25 morning, is that right?

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MR. ROBINSON: That's correct, Your Honor.

THE COURT: We're sorry, but you are going to have another two-day weekend, ladies and gentlemen, but I guess there's no alternative but, at least you can have the satisfaction of knowing the case is, probably, going to end sooner than we previously advised you.

So, it will be necessary for you to abide by the previous admonition, not to discuss the case and at this point keep your minds entirely open.

We'll be in recess until Monday morning at 9:30.

MR. ROBINSON: Your Honor, so that the record is straight, may we show that Mr. Woodall has been excused?

THE COURT: That's fine, if you both agree.

MR. ROBINSON: Thank you very much.

MR. REMAKLUS: Yes.

(Recess taken.)

1 WALLACE, IDAHO, MONDAY, OCTOBER 20, 1975, 9:30 A.M.

2 (Jury re-entered the courtroom.)

3  
4 THE COURT: Let the record show the jurors are all  
5 present.

6 MR. ROBINSON: May I proceed, Your Honor?

7 THE COURT: Yes.

8 MR. ROBINSON: Call Fred Hurst.

9  
10 J. FRED HURST,  
11 a witness produced on behalf of the defendant, being first duly  
12 sworn, took the stand and testified as follows:

13  
14 DIRECT EXAMINATION

15 BY MR. ROBINSON:

16 Q Dr. Hurst, would you state your full name, sir.

17 A Yes. J. Fred Hurst.

18 Q Where do you practice?

19 A At 6003 Overland Road, Boise, Idaho.

20 Q And what business or profession are you engaged in?

21 A I'm a psychologist.

22 Q And are you licensed to practice psychology in the  
23 State of Idaho?

24 A I am licensed to practice psychology in the State  
25 of Idaho.

1 Q And for how long have you been?  
2 A About the past three and a half years.  
3 Q And prior to that time, Dr. Hurst, were you engaged  
4 in psychology as a business and profession?  
5 A Yes.  
6 Q And where was that?  
7 A I worked for the State of Idaho Mental Health  
8 Department prior to that.  
9 Q And for what period of time?  
10 A From about 1967 through about, oh, about 1971, '70.  
11 Q All right. And would you tell us what your  
12 formal education has been in the field of psychology?  
13 A Yes. I received a Doctorate in the field of  
14 psychology from Utah State University in 1968.  
15 Q How many years would that course of study take?  
16 A I took approximately four and a half years for my  
17 graduate work in psychology.  
18 Q Now, is that over and above your undergraduate work?  
19 A Yes.  
20 Q And did you immediately, then, come to the State  
21 of Idaho?  
22 A Yes, I did.  
23 Q Have you specialized in the field of psychology?  
24 A I have worked with adults and children with the  
25 special interest in the field of neuropsychology and practice

1 of psychology in public service, criminal justice.

2 Q All right. And what is a clinical psychologist?

3 A Clinical psychologist is a psychologist trained to  
4 assess various personality and behavioral actions in the human  
5 being; using psychological methods and standard psychological  
6 tests, psychological interviews.

7 Q All right, sir. Now, are you associated or  
8 affiliated with a firm or professional organization?

9 A I'm affiliated with the Boise Family Medical Center  
10 Incorporated.

11 Q And who are some of the other personalities involved  
12 in that organization?

13 A In my particular field closely related are  
14 Dr. F. LaMarr Heyrend, M.D., psychiatrist, and Dr. Michael Estess,  
15 M.D., psychiatrist, and Gordon Smith, a psychiatric social  
16 worker.

17 Q All right, sir. And while engaged in this business  
18 during this past year, have you had occasion to come in  
19 contact with the man sitting here next to me, Thomas Creech?

20 A Yes, I met Mr. Creech December 12, 1974 in my  
21 office.

22 Q And at whose request?

23 A Sheriff Palmer brought Mr. Creech to my office.

24 Q All right. And what was the purpose that you  
25 understood at that time for the retaining of your professional

1 service?

2 A. To do a psychological evaluation on Mr. Creech.

3 Q And would you explain what method and mode then  
4 you used, then, to do a psychological evaluation?

5 A At that time I used the tests known as the  
6 Wechsler Adult Intelligence Scale; which is a standard  
7 psychological test. By "standard" primarily it means the  
8 standard procedure as the test is administered the same way  
9 each time to whoever I might be evaluating. The Wide Range of  
10 Achievement Test is the Bender-Gestalt, the Memory for Design  
11 Test, a Picture Completion Discrimination Test and the  
12 Rorschach Method. I administered a Minnesota Multiphasic  
13 Personality Inventory. That was on December 12, 1974.

14 Q All right. And, Dr. Hurst, after completion of  
15 these tests, did you reduce to a written report your findings  
16 and the results of these tests and your professional opinion?

17 A Yes, I did.

18 Q Do you have a copy of that opinion here with you?

19 A I do.

20 MR. ROBINSON: May I see it, please. May I approach  
21 the witness, Your Honor?

22 THE COURT: Yes.

23 MR. ROBINSON: I'd like that marked as Defendant's  
24 Exhibit J.

25 (Defendant's Exhibit J marked for identification.)



1 Q BY MR. ROBINSON: Dr. Hurst, handing back to you  
2 what has now been marked for identification as Defendant's  
3 Exhibit No. J, I'll ask you whether or not that is the  
4 document you just referred to, your written report of your  
5 findings as a result of giving all of these tests and your  
6 professional opinion?

7 A Yes. The tests that I named are referred to in this  
8 report.

9 Q All right. Sir, may I have that, please.

10 Dr. Hurst, are these tests given in any necessary  
11 order or sequence?

12 A Oftentimes that is a preference of the examiner.  
13 Usually I prefer to start with projective tests, mainly. My  
14 reason for that is that I don't want to create any type of  
15 mental set, try to administer projective tests because the  
16 projective tests should be, essentially, free and open  
17 expression of the individual's reaction to the stimulus.

18 Q All right. And does it really make any difference  
19 as to the sequence of the tests that you do give as to what  
20 results you obtain from them?

21 A That's been a long-debated question, again  
22 interpreted individually by various psychologists.  
23 Personally I feel that, generally, there's no great or marked  
24 influence when you administer the tests in whatever order.

25 But, like I say, I have my own personal preference.

1 I found out what works best for me and, as a professional, I  
2 have tried several techniques and then finally settled into  
3 one as I have gained greater experience.

4 Q All right, sir. Dr. Hurst, in December of 1974  
5 what period of time was spent by you giving these tests to  
6 Thomas Eugene Creech?

7 A I spent very close to four hours and 50 minutes  
8 total.

9 Q And that was the actual administering of the tests  
10 themselves?

11 A Approximately four hours were needed to administer  
12 the individual standardized test; which I would have to ask the  
13 question and, then, I would write the answer. About 50, 55  
14 minutes was taken in a -- by Mr. Creech, to complete the  
15 Minnesota Multiphasic Personality Inventory.

16 Q All right. And was Tom Creech a cooperative  
17 individual in the taking of these tests?

18 A He cooperated with me, yes.

19 Q And prior to your commencing the test, was it  
20 necessary for you to obtain any history or background?

21 A Very brief history, mostly the history at that point,  
22 at the outset, is to establish rapport with the individual,  
23 get right into the testing.

24 Then, as I move along I would conduct inquiry,  
25 interview, psychological interview techniques were then applied.

1 Q All right. And, Doctor, you are using words and I  
2 know that, as part of your profession that it's difficult for  
3 me to comprehend, so, if, during your testimony, I do stop you  
4 and ask you to interpret I hope you don't mind the interference.

5 A I won't mind.

6 Q Dr. Hurst, I find that you have, down the list, the  
7 total of seven different tests. Do you still have a copy of  
8 your report?

9 A I don't.

10 Q Pardon, sir?

11 A I don't.

12 Q Well, I'll just go down them by name and  
13 chronological order that you have them.

14 First, you have listed a Wechsler Adult Intelligence  
15 Scale.

16 A That's correct. I have notes that we'll follow,  
17 perhaps.

18 Q All right, sir. Now, first of all, Dr. Hurst,  
19 would you describe what kind of a test this is?

20 A Yes. This is a test of intellectual functioning.

21 Q And, Dr. Hurst, if you would please direct most of  
22 your comments to the jury, they are the ones that need to  
23 understand.

24 A The Wechsler Test, the Wechsler Adult Intelligence  
25 Test is a test that's widely used. It's used by the military,

1 it's been used in the selection of men and women for Officers  
2 Candidate School. It's a well-recognized psychological  
3 instrument.

4 And the word "standard psychological test" as  
5 applied to this particular test, my instructions of the  
6 procedure that I use, for example, if I were to administer the  
7 test to you, I would pretty much form -- I would follow what it  
8 states in the manual and ask the questions the same way so that  
9 I would be using a standard procedure which would be applicable  
10 to this gentleman (indicating) or to this lady (indicating) and  
11 we feel that this is a very professional way to assess the  
12 intellectual function.

13 Now, the Wechsler Adult Intelligence Scale  
14 provides three scores. One, a verbal I.Q., Intelligence  
15 Quotient, and many people define intelligence as the ability  
16 to solve problems quickly.

17 Now, that's a debated question. Unless I'm asked to  
18 go into it here, I'll let it go at that.

19 What I mean by "intelligence" --

20 Q Doctor --

21 A -- the ability to solve problems rather quickly.

22 Okay, so, then, we have a verbal I.Q. and this verbal I.Q. will  
23 give us information concerning such functions as reasoning and  
24 judgment and we have a performance I.Q. and this gives  
25 indications of perceptual motor abilities and dexterity.

1           Then, the third score I referred to gives us a  
2 full scale I.Q., or general overall intellectual functioning of  
3 the individual.

4           Q     All right, sir. And did you administer this test  
5 to Tom Creech?

6           A     Yes, I did.

7           Q     And was this an exchange of questions and answers  
8 between you and he?

9           A     Yes.

10          Q     All right. And nothing in particular that he had  
11 to do in answering questions or written paper or instruments?

12          A     Oh, yes, he had to.

13          Q     We're still just on the Wechsler.

14          A     Wechsler Adult Intelligence Scale, yes. There is  
15 a digit symbol test where I asked Mr. Creech to look at a  
16 sample of numbers and underneath each number there's a sign or  
17 symbol. Now, this may be related to something like shorthand;  
18 so the number one has a specific symbol and the two and three.  
19 Then, underneath there's a series of numbers in the upper part  
20 of the box and the bottom part is left blank. I asked Mr. Creech  
21 to match up the number and the appropriate symbol as quickly  
22 as he could and he did this for me.

23          Q     All right, sir. And the total general purpose of  
24 giving this test was to give you exactly what in relationship  
25 to Tom Creech?

1           A     Well, this particular test would have to do with  
2 perceptual motor dexterity, speed of learning.

3           Q     All right, sir.

4           A     That one particular subtest.

5           Q     All right. And what were the results that you found  
6 from this test as they applied to Tom Creech?

7           A     The total Wechsler Adult Intelligence Scale  
8 results?

9           Q     Yes.

10          A     I found that on all of the 11 subtests that they  
11 fell within the average range. With the exception of one  
12 subtest; which seemed -- well, it was higher. This was in the  
13 area of comprehension and I may be alluding to a second test  
14 at this point that I administered. I have to check my notes and  
15 see.

16                   No, on the December 12, that particular test I was  
17 referring to that was higher was on the similarity. This has  
18 to do with relationship of abstract reasoning.

19          Q     Abstract reasoning?

20          A     Yes.

21          Q     Specifically what does that mean?

22          A     Well, association of abstract ideas to a common  
23 situation.

24          Q     All right. And what was the scale?

25          A     Oh, the overall results I found to be within

1 essentially an average range.

2 Q All right.

3 A I did not observe any intellectual deterioration or  
4 any obvious defects.

5 Q All right. And were there any other results or  
6 purposes for the Wechsler Adult Intelligence Scale test that  
7 you haven't already testified to?

8 A Well, this is a test that frequently other  
9 psychologists are asked to administer because it's quite  
10 objective. If I were to administer it to one of you, you  
11 probably would wonder what it was that I was looking for or what  
12 the test probably meant. It is something that is difficult to  
13 fake or to really distort.

14 Perhaps one way you could distort would be  
15 completely uncooperative, just not respond at all. But, I  
16 didn't find that with Mr. Creech. He responded, he followed my  
17 instructions, he answered my questions.

18 Q All right, sir. Then, the next one you have is a  
19 Wide Range Achievement Test.

20 A Yes. This is a test that measures achievement on  
21 the basic school subjects; such as reading, which is word  
22 recognition, pronunciation; spelling and arithmetic computations.

23 Q All right. And, generally, why is that test given?

24 A Generally I administer this test to see what level  
25 the individual is functioning in terms of, say, the rest of the

1 population. For example, it's important for me to know that if  
2 a subject achieved a reading grade score at least the seventh  
3 grade level, and that's the level of the general population in  
4 terms of reading, then I know pretty much that they are up with  
5 the general population.

6 Q All right, sir. And --

7 A Excuse me; which also means that they are, probably,  
8 going to better understand the rest of my testing procedures.  
9 It tends to confirm. It's an adjunct to, say, the intelligence  
10 test.

11 Q Then, Dr. Hurst, are you saying that the giving of  
12 the battery of tests assists you in balancing -- bouncing one  
13 off the other to better evaluate the results of each?

14 A Yes, it might be compared to laboratory medicine  
15 where you go into your physician's office, he's going to run  
16 several tests; something you like, something you don't like.  
17 He runs several tests, if he asks you to go to a special clinic  
18 or lab, they may run something like a twelve channel screen on  
19 your blood. Well, in psychology we use a battery of tests to  
20 help facilitate things like laboratory medicines. We bounce one  
21 test off the other to get confirmation.

22 Q Now, in the Wide Range Achievement Test that you  
23 just described for us, is that taken in written form by the  
24 subject?

25 A Yes. On the spelling test I pronounce the words and



1 the subject writes the word, much like you had in grade school  
2 in your spelling test on Friday mornings.

3 Q All right. And Tom cooperated in this Wide Range  
4 Achievement Test?

5 A Yes, he did.

6 Q Were you -- all right, and what were your results?

7 A Tom, on 12-12-75 achieved a reading grade of 12.2,  
8 his spelling grade of 6.8, arithmetic of 6.7.

9 Q All right. And, Dr. Hurst, would you interpret  
10 your findings and results you've just told us?

11 A The reading grade, which would show that he reads  
12 at a high school graduate level, twelfth grade, second month,  
13 and spelling grade, sixth year, eighth month, almost seventh;  
14 arithmetic grade, sixth year, seventh month, again almost  
15 seventh.

16 So, I interpreted this to mean, for purposes of  
17 this evaluation, that he was, in these three areas, reading,  
18 spelling and arithmetic, able to function then at an average  
19 level compared with the general population.

20 Q And you say the average level is seventh grade?

21 A That's my understanding, yes.

22 Q All right. Now, were there any other finding  
23 results in the Wide Range Achievement Tests that you haven't  
24 already testified to that you relied upon for your overall  
25 evaluation?

1           A.    I did not observe any hangups in the sensory motor  
2 skills involved in learning to read, spell, write or figure  
3 mathematical problems.

4           Q.    All right, sir. Anything else?

5           A.    Nothing.

6           Q.    All right. Then, you apparently gave a  
7 Bender-Gestalt?

8           A.    Yes, sir, Bender-Gestalt Test is a perceptual motor  
9 development test. They -- along with that I gave two here at  
10 once, the Memory for Designs Test; which will follow next on  
11 the list.

12                   These are drawing tests consisting of various  
13 geometric figures and the geometric figures are printed on the  
14 cards and the subject is presented one of these cards, one at a  
15 time and asked to -- on the Bender-Gestalt, to draw what they  
16 see on a blank piece of paper, normal size typing sheet of  
17 paper. Then, as the individual draws they may start in the  
18 upper left-hand corner of the paper and proceed through all  
19 nine geometric designs, in a rather orderly way; which would  
20 give some indication as to their approach to the problem  
21 solving like, you know, they've got things pretty well  
22 organized.

23                   Then, with the Memory for Designs Test is done just  
24 a little bit different. The subject is shown the card, the  
25 design presented on it, for five seconds and, then we take the

1 card away, then they start drawing. So, while they are drawing  
2 it's not direct copying, it's from memory of having viewed the  
3 design on the card. The patient is just asked to copy what they  
4 see.

5 On the Bender-Gestalt and on the Memory for  
6 Designs Test, both of these tests are used in neuropsychology  
7 as an effort to, oh, pick up indicators of a brain damage or  
8 it tells us something about brain behavior, relationship.  
9 Because the person views the geometric design of the card, it  
10 goes to the brain and they draw this on a piece of paper and  
11 if these things are in good order, why, it comes out in good  
12 order. If not, it doesn't come out too well.

13 Q And, Dr. Hurst, what were your findings as they  
14 related to Tom Creech?

15 A I didn't find, on either of the Bender-Gestalt or  
16 the Memory for Designs Test any, oh, hard signs of brain damage.

17 Q All right. And from those findings what was your  
18 interpretation, then, of the Bender-Gestalt test?

19 A He essentially fell within a normal range, both  
20 time and terms of the way he produced geometric figures.

21 Q And the results of this test and your interpretation  
22 of it, were there any other aspects of that test that you  
23 haven't already testified to that you used for your overall  
24 professional opinion?

25 A I don't recall any.

1 Q All right. Then, the next test you have listed  
2 there is the Memory for Designs.

3 A I was referring to that as I talked about the  
4 Bender. I tried to include both of them because they are  
5 similar. The Memory for Designs Test, series of geometric  
6 figures. The figures are printed on cards, the cards are  
7 presented to the subject one at a time, subject looks at the  
8 card for five seconds, I take the card away and, then, they  
9 draw it.

10 Q All right.

11 A And that's what I was referring to jointly with the  
12 Bender.

13 Q Now, I notice that the next test is Picture  
14 Completion which you've already related to in some manner here  
15 when you referred to the Bender-Gestalt Test. Is this  
16 Picture Completion Test a part of what you explained, or is  
17 that in addition to?

18 A No, this is a separate test. A Picture Completion,  
19 picture discrimination test is separate from either the  
20 Bender-Gestalt or the Memory for Designs Test.

21 Q All right. Then, would you describe specifically  
22 what this Picture Completion Test comprised of?

23 A The Picture Completion discrimination test is a  
24 test which spots judgment. The individual looks at a picture  
25 and it's important that he assess how they interpret what they are

1 looking at, not too much what, but for example, how can they see  
2 what they see in terms of this picture.

3 For example, if you have a picture of someone, a  
4 whole family for example, sitting out on the front porch in the  
5 rain and everyone sitting around like it was a nice summer day,  
6 perhaps the subject would say, "Maybe they shouldn't be sitting  
7 out on the porch on a rainy day, they ought to go in the house."

8 Well, that could be quite appropriate, they were  
9 describing natural proper results from the stimulus. But, if  
10 they were to say something very bizarre that was, essentially  
11 not there, well, then, you'd certainly want to make a note of  
12 that and inquire further as to why that happened, why they  
13 perceived that.

14 Q Now, the term "Picture Completion" in looking at  
15 that, I would say there was a partial picture that needed to be  
16 completed by the subject, is that a part of this test?

17 A There's a picture completion test; which is -- you  
18 tell a subject that there's an important piece missing from  
19 each picture and, then, they complete the picture. The one  
20 I'm referring to here, the Picture Completion discrimination.

21 Q All right.

22 A There's a slight difference. The other is more of  
23 a situation and they discriminate what's going on. Then, they  
24 complete a story or their response based on what they see.

25 Q All right. And, Dr. Hurst, what were the results

1 of this test as it was given to Tom Creech?

2 A I found that his responses fell essentially within  
3 a normal range.

4 Q And your interpretation of those results is what?

5 A No gross impairment of judgment.

6 Q All right. And were there any other portions of  
7 that test, the purpose that you used them for in your total  
8 evaluation here that you haven't already testified to?

9 A No.

10 Q All right. Now, the next -- I find listed there is  
11 the Rorschach Method.

12 First of all, Dr. Hurst, would you describe the  
13 Rorschach Method?

14 A The Rorschach Method is a projective psychological  
15 test. Basically means that the individual is shown a stimulus  
16 and, then, they project into what they see and visualize and  
17 tell you what they see.

18 Q First of all, Doctor, would you interpret your  
19 word "stimulus"?

20 A Well, the Rorschach test consists of ten plates upon  
21 which plates there is an ink blot and each plate is given, one  
22 at a time, to the subject and they are asked to tell you what  
23 they see and they make up anything they want about what they  
24 see in that ink blot.

25 Q All right. And you did administer the Rorschach

1 Method to Tom Creech?

2 A. Yes, I did.

3 Q. And what were your results as they applied to  
4 Tom Creech?

5 A. I found his level of personality functioning to be  
6 essentially within a normal range. I did not observe any  
7 serious mental illness such as serious neuroses or psychosis  
8 to be present.

9 Q. All right. And your interpretation of that, in  
10 the giving of your entire opinion?

11 A. I carefully looked at the verbal expressions of  
12 each of his responses to each ink blot and my interpretation  
13 of the way that he expressed things was manipulative in many  
14 respects. He saw things and, then, attempted to express  
15 something on top of what he saw and, perhaps, an effort to  
16 convince me, or himself.

17 This became, sometimes, manipulative in denial that  
18 he saw something, related it to me and, then, he would deny,  
19 or back off of it.

20 Q. I'm not sure that I understand, Doctor. I would  
21 appreciate it if you would explain those things that you are  
22 now talking about, of the manipulating effort.

23 A. Well, I'm talking mostly about his thinking. It  
24 seemed that -- well, to me, I interpreted that he would make a  
25 statement and, then, his mood would change quickly as though it



1 was now onto something else, perhaps that was to manipulate my  
2 thinking away from the original statement instead of allowing  
3 me to make, say, well, himself to make further inquiry or  
4 continue on with that first statement. Then, it would be a  
5 mood change or thought shift and it would be more, I felt, a  
6 taking away of it from the original statement or to manipulate  
7 me away from the original statement and take me on to something  
8 else.

9 Q All right. And these, then, were what you felt was  
10 a result of this particular test?

11 A Personality dynamics thinking associated with the  
12 -- personality dynamics I felt were erratic and represented  
13 unpredictable thought processes.

14 Q And that which you've just stated is your  
15 interpretation of the results you got from the Rorschach Method?

16 A That's my interpretation, yes.

17 Q And was there any other aspect of the Rorschach  
18 Method that you used in your total psychological evaluation that  
19 you haven't already testified to?

20 A No.

21 Q Then we have the MMPI and this is that Minnesota  
22 test.

23 A This is known as Minnesota Multiphasic Personality  
24 Inventory.

25 Q Would you describe that test in detail.



1           A.    This is a test which is widely used in several  
2 fields. Industry uses this particular personality inventory  
3 in the selection of employees. Exactly how industry uses it  
4 I'm not expert in that field.

5           The field of psychology uses this particular  
6 test extensively. For example, the Mayo Clinic has used this  
7 particular test for years and years and years. Nearly every  
8 patient that will sit down and take the test who comes into that  
9 famous clinic goes through one of these MMPI.

10           It tells -- the results tell many things about  
11 personality dynamics and reactions to and adjustment to various  
12 and sundry things.

13           On the card -- there's several forms of the test.  
14 The form of the test that I used was a booklet form. There are  
15 566 questions in that particular test and a subject is asked to  
16 answer each question mostly -- true or false, mostly true or  
17 not usually, apply to them at that particular time and, then,  
18 they mark on an answer sheet; either indicating their true or  
19 false response under the printed T's or F's on the answer sheet.

20           Q.    All right, sir.

21           A.    And it helps to analyze personlity in terms of  
22 important phases of the personality and personality adaptation.

23           Q.    Personality adaptation?

24           A.    Yes.

25           Q.    Would you define that, please.

1           A.     This helps then define how the individual is  
2     adapting to their remote past how just, at that time, how they  
3     are functioning, or how they are coping with their present  
4     situation.

5           Q.     All right. And what were the results that you found  
6     in the giving of this test as the same applied to Tom Creech?

7           A.     My interpretation of the MMPI test profile, I  
8     noted a large amount of confusion to be present. His adaptation  
9     processes were, I felt, erratic and not predictable.

10          Q.     Please explain.

11          A.     He -- his method of coping with problems, personal,  
12     social distressing situations, he -- it was done with  
13     detachment as though he essentially was there but not there,  
14     psychologically, detachment from distressing situations.

15          Q.     And by "detachment" do you mean -- what do you mean?

16          A.     Psychological detachment here is not implied to  
17     be a loss of ability to assess reality, or being out of touch  
18     with reality; does not mean to me that Tom was suffering from,  
19     say, a psychoses or completely out of touch with reality.

20          Q.     And your interpretation, then, from this test is  
21     that you felt that Tom Creech was out of touch with reality?

22          A.     No, I did not say that, that he was in touch, that  
23     he had not lost his ability to assess reality.

24          Q.     All right.

25          A.     But, that his overall adaptation was erratic and

1 unpredictable and he responded to things with apparent  
2 detachment.

3 Q All right, sir.

4 And were there any other results of your  
5 interpretation of the MMPI test that you used in your overall  
6 evaluation that you haven't yet testified to?

7 A Overall evaluation, including -- from the Wechsler,  
8 all the battery or just with the MMPI?

9 Q Just the MMPI.

10 A No.

11 Q Are there more parts of that, or your interpretation  
12 what you already testified to?

13 A Not on the MMPI that I administered on 12--12-74.

14 Q And, Dr. Hurst, were there any other tests that  
15 you gave; other than those which we have discussed here and  
16 you listed on your evaluation, psychological evaluation report?

17 A Those are, essentially, the tests that I  
18 administered and reported on that report.

19 There was a competency screening device that I was  
20 using along with my psychological interview to gather background  
21 information; which is somewhat of a form incomplete sentence  
22 and the -- Mr. Creech was asked to complete the statements and  
23 the statements are related to things pertaining to legal court  
24 procedures.

25 Q All right, sir. And what was the purpose that you

1 gave that test?

2 A To attempt to tap Mr. Creech's insight, understanding  
3 as to what was happening in terms of the legal procedures, the  
4 court procedures related to his present situation.

5 Q All right. And, Dr. Hurst, from the giving of all  
6 of these tests to Tom Creech in December, did you form a  
7 professional opinion --

8 A Yes, I did.

9 Q -- in the evaluation of Tom Creech?

10 A Yes, I did.

11 Q And what is that opinion?

12 A My professional opinion; that he functions within  
13 an average range of intelligence; that he was orientated as to  
14 time, place, person, his language was clear, conversational.  
15 He could hear, apparently understand and to react to my  
16 instructions, follow instructions pertaining to this evaluation.  
17 I felt that he was cooperative under the circumstances, I felt  
18 a good rapport existed between Mr. Creech and myself during  
19 this evaluation and personality, in terms of personality  
20 dynamics, I formed the psychological impression that I was  
21 dealing with an immature, schizoid, resistant, paranoid,  
22 sociopathic personality.

23 Q And is that the same as your diagnosis impression?

24 A That is correct.

25 Q You've used several terminologies there. Did you

1 say "immature"?

2 A. Yes.

3 Q. Would you tell us what you mean by the term  
4 "immature"?

5 A. Lacking in maturity commensurate with his adult  
6 status or development.

7 Q. And did you use the term "schizoid"?

8 A. Yes.

9 Q. Would you tell us what you mean by that term?

10 A. A schizoid personality is one which the person  
11 responds to their environment with, oh, detachment, withdrawn.  
12 They are a loner, somewhat of social isolation. They want  
13 acceptance, they have a difficult time achieving acceptance  
14 mostly because of their inner feeling. They don't feel accepted.  
15 They are -- sometimes their behavior and thinking can be quite  
16 bizarre compared, say, to the normal. They, oh, however, never  
17 seem to lose the ability to assess reality. They pretty much  
18 stay in touch with things and the way that this is brought out  
19 on the Wechsler Adult Intelligence Scale is that Mr. Creech is  
20 socially aware, a lot of his responses related to his  
21 environment were very, very accurate up to date and what I  
22 meant by saying these tests compliment one another, they don't  
23 compliment -- depending upon how the individual responds, but  
24 he was -- he had not lost his ability to assess reality and  
25 this is something that usually you'll find in a schizoid

1 personality, still react with detachment to distressing  
2 situations in their environment.

3 Q All right. And, Doctor, you used the term  
4 "resistant".

5 A Resistant, paranoid. They go together.

6 Q That's together?

7 A In my mind.

8 Q The comma between them should not be there?

9 A Probably should be hyphenated.

10 Q All right.

11 A The paranoid reaction is found in people,  
12 represents stubbornness, rigidity. Many of these people present  
13 two dominant defense mechanisms, one is dominance and one is  
14 submission and these defense mechanisms are designed to defend,  
15 cover our feelings of being distressed because of the feeling  
16 of inadequacy and these become -- these two defense mechanisms,  
17 dominance, submission, become much more prominent as the  
18 individual becomes, say, more threatened or they feel cornered  
19 and, then, they may act out and act up. What happens then is  
20 that you find this resistance, the individual then attempts to  
21 dominate the situation and they resist change. They are not  
22 flexible, they are stubborn, rigid in their adaptations to  
23 their environment.

24 Q All right.

25 A This is what I referred to as "resistant".

1 Q Resistant-paranoid is what you just described?

2 A Yes.

3 Q You use the term "sociopathic personality disorder".  
4 Would you describe what you mean by that terminology?

5 A The sociopathic personality category has been one  
6 label that I suppose has distressed most people in the field of  
7 psychology for years and years and years. It's had a long  
8 history of name change; moral insanity to psychopathic deviant  
9 to a more recent term sociopath.

10 I think, in the latest diagnostic manual you'll  
11 find more recent literature describing antisocial personality  
12 and this all comes under this word that I used in my mind,  
13 sociopath. These people are generally compulsive; take more  
14 than they give. Their adaptation to their environment is one  
15 filled with rapid mood changes and they do not learn from  
16 experience because with rapid mood changes they don't -- they  
17 start on something, then their mood changes, they don't stay  
18 with anything long enough to learn from it. So, because of the  
19 rapid mood changes we find these people, the sociopath doesn't,  
20 apparently, learn from past experience; that is through  
21 punishment, they don't learn with -- what punishment means or  
22 why they are being punished.

23 They are, oftentimes, compulsive people, they do it  
24 now, worry about it later approach to life.

25 Q All right. And, Doctor, you referred to "His



1 paucity of feeling for others and lack of altruistic and  
2 compassionate concern for others made this man extremely  
3 dangerous."

4 A Yes, the lack of altruistic feeling and value for  
5 others, I feel makes Mr. Creech a dangerous individual.

6 Q And was this from the overall testing --

7 A Yes.

8 Q -- that you gained this impression?

9 A Yes. He has a dearth of impulse control and, in  
10 my opinion, lacks the ability to delay gratification.

11 Q And what do you mean by that, "lacks the ability  
12 to delay gratification"?

13 A Impulsive, wants now, not willing to wait, think  
14 things through. There's a dearth, or weakness of personality  
15 strength to hold back, or to delay obtaining something.

16 Q All right. And, Dr. Hurst, when did you complete  
17 your entire psychological evaluation and reduce it to written  
18 form?

19 A It was right around the middle part of -- let's  
20 see, seems --

21 Q This letter contains the date of February 20th.

22 A That's when it was typed. To answer your question  
23 specifically, probably it was right after -- about the middle  
24 of January, about that time I went to San Francisco for some  
25 postgraduate work. But, I feel that I had my full analysis



1 made and it was in this written form.

2 Q All right. And what did you do with your  
3 psychological analysis; either verbally or in written form?

4 A I consulted with my colleagues; specifically  
5 Dr. Estess.

6 Q All right. And was your report to be used as an  
7 overall psychiatric evaluation?

8 A Oh, no, no.

9 Q Pardon?

10 A No. No, this was a psychological report, not  
11 psychiatric.

12 Q Possibly you didn't understand my question.

13 A I'm sorry.

14 Q Was your psychological analysis report to be used  
15 by the psychiatrists in their completion of the total  
16 psychiatric evaluation?

17 A Yes.

18 MR. ROBINSON: We'd ask that Defendant's Exhibit No. J  
19 be admitted into evidence, Your Honor.

20 MR. THOMAS: No objection.

21 THE COURT: J will be admitted.

22 (Defendant's Exhibit J admitted into evidence.)

23 Q BY MR. ROBINSON: Now, Dr. Hurst, you've just made  
24 comment about the difference of the two fields, psychologists  
25 and psychiatrists.

1                   Would you define each of those and the differences  
2 as you understand them, sir?

3           A.     Based on my training, my understanding of the  
4 field of psychology is that psychology is the study of the mind.  
5 In the field of psychology we have developed various methods of  
6 assessing brain behavior relationships in our processes of  
7 attempting to better understand the human mind and, psychology,  
8 by definition, is the study of the human mind.

9           The psychologist differs in one very major way  
10 from the psychiatrist in that the psychologist usually is not a  
11 medical doctor. A psychiatrist is a medical doctor and, then,  
12 specializes in the field of psychiatry and that, briefly, is  
13 how I see the major difference.

14           The fields are compatible in many, many respects  
15 because we are dealing with human behavior. Our approaches are  
16 not diametrically opposed, they do not necessarily run parallel.  
17 They mingle, they are meshed and, many times, we find that, not  
18 only does the field of psychiatry, but general medicine rely  
19 on psychological studies to enhance their tools in their  
20 particular profession.

21           So, the fields are compatible but the one major  
22 difference is psychiatrists first are an M.D., is licensed in --  
23 as a medical practitioner. The psychologist is not a medical  
24 practitioner.

25           Q.     Dr. Hurst, is it fair to state that in the field of

1 psychiatry that the psychologist is the investigator for the  
2 psychiatrist?

3 A. It turns out that way sometimes. That's not  
4 necessarily the sole purpose. We're independent practitioners  
5 of our particular profession.

6 Q. Now --

7 A. We are asked, sometimes, by the psychiatrist to  
8 do just that, using our psychological tests because our methods  
9 are objective. Sometimes our methods can be so objective that  
10 the patient will sit and have only contact with an electronic  
11 device and their responses are recorded on this electronic  
12 gadget whereas the psychiatrist gets down and gets into a  
13 personal give and take situation which, of course, is their  
14 way of assessing the patient and forming their clinical  
15 judgment and they are very highly skilled professionals in  
16 assessing human behavior based on this clinical judgment.

17 Q. All right. And in your diagnostic impression that  
18 you recorded in Defendant's Exhibit "A", is it your opinion  
19 that Tom Creech was a usual type of that diagnosis for -- or an  
20 unusual type?

21 A. I would feel that would -- within that diagnostic  
22 category that I presented in my report, he was one of the more  
23 unusual personalities that I've evaluated over the years.

24 Q. All right. Now, Dr. Hurst, have you followed up,  
25 more recently, a different session, a request in giving these

1 tests again?

2 A. Yes, Sheriff Palmer brought Mr. Creech to my  
3 office on September 24th and, again, on September 25th, 1975,  
4 this past month.

5 Q And did you pass through all of the tests that you  
6 have described to the jury?

7 A. All of those and some additional tests.

8 Q And, specifically, what additional tests?

9 A. I administered a mild ABC test for ocular dominance,  
10 a lateral dominance test. I administered on two -- one each  
11 day. The trail-making test, the aphasia screening test and  
12 the competency screen test and sentence completion test.

13 Q All right. Would you describe the mild -- first  
14 one that you mentioned?

15 A. Yes. The mild ABC ocular dominance test. The  
16 subject is told that this is a vision test and there are three  
17 cones, funnel-shaped cones which are presented in front of the  
18 subject and each cone is numbered one, two and three. Then  
19 the examiner holds some little cards, or the card, there's a  
20 large circle and, then, a small circle and these were  
21 alternated from left to right, a little line that runs between.

22 The subject is asked to pick up the cone and look  
23 through the wide end and, then, hold the little card up by my  
24 nose, or eyes, and ask the patient to tell me which side the  
25 largest circle is on. I'm back about, oh, five and a half,

1 maybe six feet from the patient.

2 Now, this is not a vision test, it's an ocular  
3 dominance test and, as the patient looks through this cone you  
4 can see their dominant eye, the eye that they are using through  
5 the narrow end as they spot for you and find this card that  
6 you are holding up and it tells you whether they are using their  
7 left eye or their right eye for performing this function.

8 Q And what was the purpose of this test?

9 A. This was -- a purpose was to find, in conjunction  
10 with lateral dominance, to see if there was some reason why  
11 there may exist some brain damage or some gross malfunction of  
12 the behavior and eye-hand usage.

13 Q And what were the results of this test as given to  
14 Tom Creech and your interpretation?

15 A He used his -- out of ten times, he used his right  
16 eye once and the left eye nine times. I concluded that he was  
17 dominant left eye.

18 Q All right. And the next test that you gave?

19 A The lateral dominance test has to do with handedness  
20 and footedness and his is right handed.

21 I asked him to demonstrate how to use a doorknob.  
22 He did so with his right hand, write his name and we did that  
23 with both hands. He wrote his name with his preferred hand, or  
24 right hand, in 8 seconds and with his left hand, I believe it  
25 was something like 28 seconds; which isn't unusual. That's

1 essentially within the normal range. But, it did indicate that  
2 he is primarily right handed.

3 Q The purpose of that test and its interpretation?

4 A To define the lateral dominance handedness and  
5 footedness and tied this in with the ocular dominance and I  
6 concluded, through both of these tests, that he's left eyed,  
7 right handed and right footed. So, there would be some mixed  
8 dominance problems which may be related contributing to some  
9 confusion at times in terms of coordination, motor adaptation.

10 Q Does that also go to the interpretation of whether  
11 or not there is, or is not, brain damage?

12 A If you find gross, gross impairment, yes, it would  
13 suggest brain damage.

14 Q And the next test that you gave, Dr. Hurst?

15 A The trail-making test. I administered that on the  
16 24th and, also, on the 25th.

17 The trail-making test requires concentration. This  
18 particular test was first developed by the United States Army  
19 and used widely, mostly in people who have been in the  
20 military service. You probably completed the trail-making  
21 test at one point in time.

22 The Part A of the trail-making test consists of  
23 25 circles, numbered one to 25 and they are at random on a  
24 standard piece of paper and they ask the subjects to begin at  
25 a certain point and to connect up the circles, like going from

1 one to two, three, four, five, six until they get to number 25.  
2 But, they have to, in a sense, form a trail and make correct  
3 connection between circle one, two and so on.

4 This is a test which requires some concentration  
5 and manual dexterity.

6 Q And the purpose and your interpretation, Dr. Hurst,  
7 of this test?

8 A The purpose being, this is just a trails -- A,  
9 part of the -- A part of the trail-making test was to evaluate  
10 if there were some perceptual motor impairment that were  
11 hampering concentration or being able to make judgment as to  
12 which way to move and to complete this particular Trails A,  
13 Part A.

14 Q Doctor, I did jump ahead of my Part B.

15 A Part B, again, 25 circles. This time we use  
16 numbers and letters like 1-A, A-2. This requires some additional  
17 concentration and visual tracking and you have to pay pretty  
18 close attention. Mr. Creech had quite a time with that  
19 particular test. He wanted to go in other directions, other  
20 than following, stop, think about it for just a moment. It  
21 takes a lot of concentration to go from 1-A, A-2, 3, what's  
22 the next one? See, you really have got to use your concentration  
23 abilities to do that and he had quite a time doing that on  
24 both occasions.

25 I interpreted that to mean that there was some



1 impairment and ability to concentrate not to such an extent  
2 that it would suggest to me brain damage.

3 Q All right. And the next test that you gave, Doctor?

4 A The next test was the aphasia screening test. This  
5 test, the subject is asked to reproduce on a blank piece of  
6 paper some geometric figures and I have the little test booklet  
7 here and this test is different than the other two that I  
8 talked about, the Bender and Memory for Designs where you ask  
9 the subject to complete these geometric figures on a blank  
10 piece of paper.

11 We asked them to complete this figure and not to  
12 lift their pencil until they had completed the drawing, to make  
13 the drawing approximately the same size so that you get -- now  
14 it might be easier for a person to go this way with a pencil,  
15 to go and connect up the lines, but Mr. Creech was able to do  
16 this particular figure satisfactorily and did not indicate any  
17 hard signs of brain damage.

18 The next figure is this particular figure and they  
19 are asked to draw this figure, again approximately the same  
20 size without lifting the pencil and, then, following this  
21 figure familiar to most of us, they are asked to perform the  
22 test in the same way.

23 Following the presentation of each figure you ask  
24 the individual to name the figure and to spell the figure.

25 The next is to just name out loud this particular



1 figure. The next you ask the subject not to say anything but to  
2 write the name of the next picture on the paper. Mr. Creech  
3 wrote "Grandfather clock".

4 So, as you go through this particular aphasia  
5 screening test, it has to do with perceptual motor skill,  
6 sensory skills because you are dealing with perception, a  
7 drawing and you ask the individual to spell and to perform  
8 certain tasks that give me some indication as to the brain  
9 behavior relationship and his brain functioning.

10 The test, the screen test, and I did not find,  
11 upon examining the results any hard signs of brain damage.

12 Q And your last comment, Dr. Hurst, that was your  
13 interpretation of the results of this test?

14 A Yes.

15 Q All right. And did you do further testing in  
16 addition to the original ones that you had done last December?

17 A The competency screening test which I alluded to  
18 earlier but not recorded because I used it at that time on  
19 December or as part of my psychological interview rather than  
20 administer it as a test in a formal sense as I would describe  
21 it.

22 In September I asked Mr. Creech to complete the  
23 test and he sat in another room other than my office and did  
24 that competency screening test for me.

25 Q All right. And did that complete your testing, then,

1 in September of this year, last month?

2 A. Yes, it did.

3 Q. Were the results and your diagnostic impression  
4 consistent with, or inconsistent?

5 A. Consistent.

6 Q. And what does that mean?

7 A. That almost item for item Mr. Creech gave me similar  
8 responses. Comparing the tests I administered in December and  
9 the test -- the same tests I administered in September, his  
10 responses were very, very similar.

11 Q. All right. By that do you mean the scores on each  
12 of the tests were numerically very close?

13 A. Yes, I can illustrate that for you if you wish.

14 Q. Well, just a second, perhaps we can do it by word,  
15 Doctor.

16 First of all, if they had been inconsistent what  
17 would that have meant?

18 A. It would have meant, probably, a marked change in  
19 level of functioning intellectually.

20 Q. All right. And, then, by being opposite of  
21 inconsistent, you stated that they were consistent?

22 A. Yes.

23 Q. That means what?

24 A. Level of functioning is about the same in September  
25 as it was when I first saw Mr. Creech in December, '74.

1 Q And have the tests that you conducted in September  
2 also been conveyed to the psychiatrist that you are  
3 affiliated or associated with?

4 A Yes.

5 MR. ROBINSON: Your Honor, I wonder if we could have a  
6 short recess.

7 THE COURT: We'll take a ten-minute recess if you will  
8 remember the admonition, don't discuss the case and keep your  
9 minds open.

10 (Recess taken.)

11 THE COURT: Show the jurors are all present.

12 MR. ROBINSON: May I proceed, Your Honor?

13 THE COURT: Yes.

14 Q BY MR. ROBINSON: Dr. Hurst, in giving these tests  
15 in December of '74 and recently here in September of "1974",  
16 did you avail yourself of any previous psychological testing  
17 results from either Lima Hospital in Ohio or the Salem Mental  
18 Hospital in Oregon?

19 A No. Mr. Creech told me he had not had previous  
20 psychological testing.

21 Q All right. And did you find this to be true from  
22 any examination of your records?

23 A He had been administered a picture test and the  
24 Memory for Designs Test; the only two that I remember reading  
25 about in any report from a physician from Oregon, a psychiatrist.

1 Q All right. And, actually examinations of previous  
2 tests, would that have added or detracted from your findings or  
3 your impressions?

4 A No, because there was not a detailed interpretation  
5 of the findings.

6 Q All right. And, Dr. Hurst, how many different  
7 psychological evaluations have you done on persons that were  
8 charged with murder?

9 A Approximately six that come quickly to my mind.

10 Q And have all of those been here in the State of  
11 Idaho?

12 A Yes, they have.

13 MR. ROBINSON: You may examine, Counsel.

14

15 CROSS EXAMINATION

16 BY MR. THOMAS:

17 Q Dr. Hurst, it is correct, is it not, that in all  
18 of your testing you found no evidence of brain damage?

19 A That is correct.

20 Q And I also, if I correctly understand your testimony,  
21 you found no evidence of significant mental illness?

22 A That is correct.

23 MR. THOMAS: No further questions.

24

25

REDIRECT EXAMINATION

BY MR. ROBINSON:

Q. Would you define what that last answer to Mr. Thomas' questions, you found no evidence of mental illness?

A. Any serious -- I testified that I did not find the presence of any serious mental illness such as a serious neuroses or psychoses. What I did find was what I described as a personality disorder.

Q. And were there any recommendations that you made in regard to your diagnosis, Dr. Hurst?

A. None that I can recall.

MR. ROBINSON: I have nothing further, Your Honor.

MR. THOMAS: Nothing further, Your Honor.

THE COURT: You may step down.

MR. ROBINSON: We call Dr. F. LaMarr Heyrend.

F. LaMARR HEYREND, M.D.,

a witness on behalf of the defendant, having been first duly sworn, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. ROBINSON:

Q Dr. Heyrend, would you state your full name and your address, please.

A Yes, Floyd LaMarr Heyrend, 6003 Overland Road, Boise, Idaho.

Q And what is your profession, sir?

A I'm a physician licensed to practice medicine and surgery in the State of Idaho and specialize in psychiatry.

Q And how long have you been so licensed here in the State of Idaho?

A I've been licensed since 1956 in the State of Idaho to practice medicine and I began my specialty of psychiatry in 1963.

Q And were you in practice and licensed to practice in any other State prior to coming to the State of Idaho?

A Yes, I was.

Q And where was that, sir?

A That was the State of Utah.

Q And would you tell us your general background in your specialty, field of psychiatry, educationally?

A Well, my background is that of, of course, the premedical course and a Bachelor's Degree from the University of Utah in sociology, ecology specifically, and then, I went through medical school and obtained my medical doctorate from

1 the University of Utah, went through an internship which was  
2 standard at that time, rotating-type; then I had two years of  
3 residency, which extended to two and a half years training in  
4 pediatrics, pediatric neurology and child psychiatry on a  
5 fellowship from the National Institute of Health for the last  
6 year in terms of this area.

7 I then went to the Idaho Falls area where I  
8 practiced and represented the State of Idaho in a seven-county  
9 area for crippled children, neurological clinics and also some  
10 adult neurological clinics and also did child psychiatric  
11 consultations for them.

12 After a period of time, since my practice became  
13 more and more psychiatric I decided to finish my training,  
14 returned to the University and spent another two and a half  
15 years in terms of adult psychiatry and neurology to complete  
16 my training.

17 Q Which university was that?

18 A That was at the University of Utah.

19 Q All right, sir.

20 A Since I had gone to the university on a sponsorship  
21 from the State Department of Health and State of Idaho I was  
22 obligated, in a sense, to return to the State of Idaho; which I  
23 did. I became the clinical director of the mental health  
24 center in Boise, Idaho, for a period of three years, essentially  
25 half time and private practice half time.

1           At the end of that three years I went into full-time  
2 private practice and have remained there.

3           Q     All right. And you have been in private practice,  
4 then, exclusively for what period of time?

5           A     I've been in practice of -- in private practice for  
6 -- just over seven years.

7           Q     And, Dr. Heyrend, do you belong to any special  
8 groups, societies in connection with your specialty of  
9 psychiatry?

10          A     Well, I belong to the usual medical organizations,  
11 namely the Medical Association and its county, state and  
12 national level, and also to the Psychiatric Organizations  
13 which are the same, the Idaho Chapter, the Regional Chapter  
14 and the National Chapter; also happen to be a member of the  
15 Pediatric Association, American Academy of Pediatrics. So, I  
16 have been for a long time.

17          Q     All right. And what is "Board Certification"?

18          A     Board Certification -- first of all, you complete  
19 the training which makes you Board eligible; which I am.  
20 Board Certification is, if you go to take an educational  
21 examination after a couple of years of practice for Board  
22 Certification in psychiatry.

23          Q     All right. And specifically what does that add to  
24 the profession that you practice?

25          A     It increases your portfolio is essentially it. In



1 under the influence of Sodium Ametol.

2 MR. THOMAS: Objection, Your Honor, this is inadmissible  
3 evidence and the Court has ruled that evidence of this kind of  
4 interrogation and interviews while under the influence of drugs  
5 are not admissible.

6 MR. ROBINSON: Your Honor --

7 THE COURT: I simply ruled that the conclusions, not  
8 that they made -- not describing parts of his examination and  
9 diagnosis. The objection is overruled.

10 Q BY MR. ROBINSON: And how many occasions,  
11 Dr. Heyrend, did you say that Tom Creech has been to your  
12 office for this kind of attention by you?

13 A I think my memory will fail me because I believe  
14 it's between six and eight. I can't remember.

15 Q All right, sir. And were each of these occasions  
16 attended to the use of either hypnosis or Sodium Ametol or  
17 Ridelene?

18 A During the examination I did have a conversation  
19 with him. Of course, when he was either under the influence  
20 of hypnosis or under the influence of medication. In each of  
21 these he was not administered medication because he spent a  
22 total of, I think it was, two and a half days, or the better  
23 part of two and a half days in my office going through  
24 psychological testing with Dr. Hurst and, I also talked to him  
25 at this time.

1           So that all of the sessions were not under the  
2 influence of medication and all of each session was not under  
3 the influence of medication and/or hypnosis.

4           Q     All right, sir. And have you been, in your field  
5 of psychiatry, been hired or retained by law enforcement  
6 or the State of Idaho to evaluate Tom Creech?

7           A     I really don't know what you would call it, but, yes,  
8 I was asked to see him by the State of Idaho, was asked to see  
9 him by the Ada County Sheriff for medical purposes and treatment  
10 while in the jail on initial visits and one other occasion.  
11 I would suspect that you could say I was hired.

12          Q     All right. The point I wanted to make, Dr. Heyrend,  
13 is, that whether or not you have been hired by me or by  
14 Tom Creech specifically as his physician or his psychiatrist?

15          A     No, I was never hired or retained by you and, in  
16 terms of Mr. Creech, he did not make the approach.  
17 Sheriff Palmer asked me to see him. Following this, however,  
18 Mr. Creech did make requests to see me and I did see him.

19          Q     All right. And, Doctor, with your medical background  
20 and evaluation, have you availed yourself, as a result of  
21 EEG, EKG, brain scans, all of the other medical diagnostic  
22 equipment and tests for the physical aspect of Tom Creech?

23          A     I specifically have not gone into it that  
24 extensively. He did go through a very extensive careful  
25 screening for brain damage in my office; was very precisely

1 done by Dr. Hurst, which I feel is the most accurate indicator  
2 we have of brain damage.

3 Q All right, sir. And are you referring now to the  
4 testing that Dr. Hurst has just testified to?

5 A That's very correct.

6 Q And, Dr. Heyrend, have you used Dr. Hurst's  
7 ability as a psychologist likened unto an investigator to aid  
8 and assist you in your entire evaluation?

9 A Yes, I have.

10 Q Now, prior to your commencing to talk with Tom and  
11 evaluate him as a psychiatrist, did you familiarize yourself  
12 with a history?

13 A Yes, I did.

14 Q And would you advise us as to what that history  
15 was that you had at your disposal?

16 A I had a large number of documents at my disposal  
17 which consisted of the information which had been gathered by  
18 law enforcement regarding Mr. Creech; the volume of which was  
19 considerable.

20 I also talked to psychiatrists from the State of  
21 Oregon regarding his hospitalization there and their studies  
22 and his feelings about Mr. Creech. I also, of course, had  
23 available to me the statements which Mr. Creech wrote himself  
24 about himself as well as those in which he was questioned.

25 The ---

1 Q Excuse me, Doctor. Are you there referring to  
2 a manuscript written by Tom Creech regarding his involvements?

3 A Yes, it was the rudiment of some sort of an  
4 autobiography which he was writing.

5 Q All right, sir.

6 A Was what it represented that he was writing this  
7 about himself and his background. So that I had sitting on  
8 my desk as background material a stack which would be easily  
9 that high (indicating) of various materials which Tom had  
10 written, interrogations and records.

11 Q When you say "that high" was that a distance of  
12 approximately ten inches?

13 A I think it wasn't quite that high, probably closer  
14 to six.

15 Q All right.

16 A But, it's a formidable amount of information to  
17 wade through.

18 Q All right, sir. And did you have, at your  
19 disposal, information from Lima State Hospital in Ohio and  
20 General Hospital Workups in Los Angeles? Had those particular  
21 items been gathered by law enforcement?

22 A Not at that time.

23 Q All right. And would you then describe to us from  
24 your first contacts that were made with Tom Creech at the  
25 Ada County Jail, what next occurred in your examining Tom Creech

1 with and without medication?

2 A Well, in the first situation, of course, I had them  
3 administer some medication to calm him down because he was  
4 obviously quite agitated in the cell situation he was in; which  
5 is a very small cubicle made out of boiler plate that's painted  
6 blue or some color and all that you had was a bunch of small  
7 holes punched in it. He was very distressed in this particular  
8 situation. But, following this I have talked to Mr. Creech  
9 about himself as a person, his background, his history as a  
10 child, school and various things, both while under the influence  
11 and while not under the influence.

12 Now, I might state that in each session there were  
13 specific questions which we chose to ask which were determined,  
14 predominantly by law enforcement people because Mr. Creech had  
15 made certain statements regarding his activities in previous  
16 places, areas, states, et cetera.

17 What we did was to question him under hypnosis and/or  
18 Sodium Ametol so as to help reinforce his memory and get more  
19 specific information. Some of the information which was  
20 received was very helpful.

21 Of course, in the process of this you can't help  
22 but get bits and pieces of other information regarding his  
23 background, his relationships with people, his feelings towards  
24 his parents, family, et cetera. So, that as we went through I  
25 obtained an overall view of his life because we took various

1 portions, piece-by-piece and I also helped to gather information  
2 which law enforcement thought was very helpful.

3 He was generally cooperative in the sessions.

4 Q What do you mean by that, Doctor?

5 A I mean that I can say that he was cooperative in  
6 most sessions when we discussed, for instance, his girl friend  
7 he was very protective of her.

8 Q Did you determine which girl friend?

9 A Yes, this was Miss Spaulding.

10 Q All right.

11 A And the sessions, for instance, there he was  
12 somewhat guarded and he would oscillate there, being protective  
13 and then, not so protective and then tightening up again where  
14 she was concerned.

15 So, those were examples of areas of discussion  
16 which were not as satisfactory as some other areas where he was  
17 more cooperative, but, he is protective of her.

18 Q All right. And can I interrupt you to define that  
19 area of cooperation and you were on the subject matter of  
20 telling us your other contacts and methods.

21 Possibly we lost that particular area that you were  
22 in, Dr. Heyrend. What is Sodium Ametol?

23 A Sodium Ametol is a short-acting barbiturate and  
24 falls under the category of hypnotics. It is closely related to  
25 Pentothal which you are all familiar with that they give you

1 when you are going to the hospital and put you to sleep and do  
2 the surgery. That would be ultra-short acting as compared to  
3 short-acting.

4 As such, it sedates and places the person in a  
5 sleep if you give them enough. It simply relaxes them  
6 profoundly enough that, with help, they can concentrate on a  
7 given area.

8 Now, there are two techniques involved and I have  
9 done many, many of those interviews. The one is where I put  
10 the individual completely asleep with the Sodium Ametol and  
11 awaken them with a very powerful intravenous stimulant, Ridelene.  
12 This is the most satisfactory.

13 However, because of persistent drug abuse patterns  
14 in the country, why, Ridelene was taken off the market because  
15 it was manufactured for intravenous use and "speed freaks"  
16 misused it and, so, it was taken out of production. But, in the  
17 initial interviews there was some of it available.

18 In the latter interviews the amount of Ametol given  
19 was that which produced a drowsy state which, then, with  
20 usual hypnotic techniques were able to put him into a trance  
21 and hold him in the trance for a period of time. So, I would  
22 say in the latter sessions it was a matter of using the Ametol  
23 to relax him and to make the process of putting him in a  
24 hypnotic trance much easier and it really does facilitate it.

25 Q All right, sir. And, Dr. Heyrend, what type of



1 subject was Tom Creech for your administering the Sodium Ametol,  
2 Ridelene and hypnotics?

3 A. I think I characterized him as cooperative.

4 Q. All right.

5 A. In that there was -- he did this by giving us  
6 permission to do so and freely volunteered to do this. So, I  
7 would say he could be classified as a very cooperative individual.

8 Q. And on each session is it dependent upon the amount  
9 of drug or medication that you administer to the length of time  
10 that Tom was in the hynotic state, or trance?

11 A. That's one of the variables. That's not necessarily  
12 the entire thing. As I pointed out, the effects of the drug is  
13 transient, it only lasts for, maybe, 15 or 20 minutes. But, if  
14 he's in a trance you can continue to get him to focus on  
15 things, continue to get him to recall details, specific events,  
16 times, places and, really, like the Sheriff would be there and  
17 he would have an outline of an area and in these cases Tom  
18 would, in detail, fill these in in time, place, person and  
19 house addresses; such things as this.

20 This is a standard technique that's used to help  
21 people in many sessions to recall and, so, that I would say that  
22 the amount is not really that important. It is the technique  
23 and experience, the individual using it, that's important. You  
24 have to know how to use it.

25 Q. All right. And during these sessions what was --



1 strike that, please.

2 Dr. Heyrend, were you bringing information from  
3 Tom during these sessions from his subconscious mind?

4 A. I guess you could perhaps say that in that I would  
5 rather say that -- all information which we have gathered and  
6 store in our brain is not readily accessible and we help making  
7 some of this information accessible. Like you may have  
8 witnessed something six months ago and you can't remember the  
9 details. With hypnosis you can recall many of the details and  
10 often it's amazing what you do recall; such as the color of  
11 car and license numbers and things like this; which is, of  
12 course, very, very helpful. So that it helps us to get and  
13 what we would call "remote memory" because we were talking about  
14 events, places and times several years ago and it's difficult  
15 for all of us to remember where we were two or three years ago  
16 on a specific date. Regardless of what we were doing the  
17 details start to slip.

18 Q All right. And were you able to get details from  
19 him on events involving this total story of death that he has  
20 related to you?

21 A Yes, we did.

22 Q And during those sessions, Dr. Heyrend, how much,  
23 if any, control did Tom Creech exert on the answers that he  
24 gave to propounded questions?

25 A There were times when -- in which he could have

1 considerable control and, of course, did exercise considerable  
2 control. There were short periods of time in which his control  
3 was minimal. For instance, his control was minimal at the time  
4 that he was awakened with the Ridelene and there was a short  
5 period of time there which he exercised little control.

6 Generally, under hypnosis he has, really, good  
7 control in that people are not going to say anything they  
8 don't want to say, or do anything they don't want to do when  
9 they are hypnotised, that's all there is to it.

10 So that he did have control then. When you are  
11 under the influence of a hypnotic such as Ametol there is  
12 periods of time in which your control is definitely diminished  
13 and, at times, you will simply spill out information which you  
14 really don't want to spill out but you do. We've demonstrated  
15 this, of course, many times in other cases.

16 Q And, Dr. Heyrend, you have involved yourself  
17 very deeply in the Methadone Program here in the State of Idaho;  
18 have you not?

19 A At one time.

20 Q At one time?

21 A Several years ago.

22 Q Would you describe what that is, sir, the Methadone?

23 A Well, the Methadone Program came about because of  
24 a specific need in the State of Idaho which was, that for a  
25 period of time there was an increasing number of heroin addicts,

1 particularly in the Magic Valley and Treasure Valley area. So,  
2 we simply set up a clinic in which we gave them Methadone in a  
3 controlled situation rather than having them act out in an  
4 antisocial way and using illicit drugs.

5 What we did is, we took individuals which we felt  
6 simply were of such a psychological make-up, so addicted that  
7 it was not very likely we could withdraw them and treat them and  
8 simply put them on a maintenance program. Methadone is simply  
9 being a synthetic narcotic over which we could control the  
10 dosage and, while we had them, namely coming for their medication,  
11 we had them go to group therapy and so forth to try to bring  
12 about some long rehabilitation. The program has since been  
13 discontinued.

14 Q All right. And connected with that, Dr. Heyrend,  
15 did you determine that Tom Creech had been a user of narcotics  
16 and different types of drugs prior to his apprehension?

17 A You mean in terms of what he said?

18 Q Yes.

19 A Yes.

20 Q And were you able to make a determination of drug  
21 tolerance in Tom Creech?

22 A No, I was not able to make any evaluation of drug  
23 tolerance.

24 Q All right. First of all, there -- what is "drug  
25 tolerance"?

1           A.     I'm not entirely sure of what you mean, but I think  
2     that what you are referring to is the fact that an individual  
3     will start with a small amount of medication, or a drug, and  
4     have what he feels a satisfactory effect from it, in terms of  
5     how it makes him feel.

6                 However, as he goes on, the amount necessary to  
7     make him feel this way is more and more and, of course, this is  
8     why many times this heroin addict takes more and more and, then  
9     they come in and say they want to reform and do all these  
10    good things so that you'll withdraw them and get them down to  
11    where they can start over again with a smaller amount that they  
12    can afford because their need increases to the point that they  
13    can no longer afford it. They can't steal enough or work  
14    hard enough to pay for it. So, we're constantly running into  
15    this particular picture.

16                In terms of tolerance of barbiturates, this is true.  
17    In minor tranquilizers it's also true. So, there are many  
18    medications and, both legal and I guess illegal drugs that you  
19    do develop a tolerance to.

20           Q     All right. And after a person has been incarcerated  
21    and, therefore, withdrawn, does your body function in a natural  
22    way despite the effect of drugs and return the body in its  
23    function to an area called "normal"?

24                MR. THOMAS: Objection, Your Honor, on three grounds.  
25    One, it's a leading question; two, the line of questioning is

1 not relevant and no foundation has been laid to demonstrate that  
2 the defendant was involved with drugs at any relevant time in  
3 this case.

4 THE COURT: Objection sustained.

5 Q BY MR. ROBINSON: Dr. Heyrend, in what Tom Creech  
6 described to you as his drug usage prior to incarceration,  
7 would that have any effect on your administering the  
8 Sodium Ametol, or Ridelene?

9 A. No.

10 Q All right. Then, during the sessions that you  
11 described, did Tom ever involve Carol Spaulding as a principal  
12 in any death circumstances outside of the State of Idaho?

13 MR. THOMAS: Objection on the grounds of relevancy.

14 THE COURT: Sustained.

15 Q BY MR. ROBINSON: Dr. Heyrend, would you describe  
16 Tom Creech relative to independent or dependency personality?

17 MR. THOMAS: Objection, unduly leading.

18 THE COURT: Yes, I'm going to sustain the objection.

19 Q BY MR. ROBINSON: Dr. Heyrend, would you describe  
20 the symptoms that you found in Tom Creech that you observed and  
21 used for your final psychiatric evaluation?

22 MR. THOMAS: Objection, leading question, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: Yes, I can.

25 Q BY MR. ROBINSON: And would you do so, please.

1           A.     During my rather long and lengthy contacts with  
2 Mr. Creech, as well as conversations with him in the jail when  
3 he was feeling badly, I noted many things of significance.

4                 First of all, on the basis of a detailed history,  
5 I found that he really had never been able to relate to people  
6 effectively in terms of finding any evidence of satisfactory  
7 relationships with parents, friends. I really found no  
8 relationships in which he really related. The relationships  
9 simply appeared to be transient in nature and lacking in depth  
10 and there seemed to be an absence of loyalty and so forth in  
11 relationships.

12                In terms of his overall behavior, both by history  
13 and in the office and by testing, he tended to be impulsive and  
14 this simply means that he acts without proper forethought and  
15 consider the long-term consequences of what he's doing.

16                He has a tendency to let it slide off the top of  
17 his head, we might say. The -- there was a pervasive attitude  
18 regarding that which we might say self-centered or  
19 narcissistic or whatever you want to call. But, in general it  
20 appeared in the past that what appeared to be good for him must  
21 necessarily be good for others; which is very defective but,  
22 nevertheless, it's kind of a mode of operation and goes along  
23 with previous comments about operating on the basis of the  
24 pressure principle; which is immediate gratification, that's  
25 like you see in three-year olds. They want it now, they don't

1 want to wait. They want it right now. So that we saw this.

2 Then, in terms of his ideas and feelings we find --  
3 we found -- I found a lack of sensitivity for the feeling of  
4 others in many cases. Also I think that we could refer to his  
5 sense of morality certainly seemed to be different and lacking  
6 and, according to average standards.

7 The other aspects which I observed, of course,  
8 were -- and put on record, were those of anxiety. Well, of  
9 course, now, at times when I saw him he was anxious and I  
10 suppose he's been anxious before. But, I felt that the anxiety  
11 was not sick in any way, it was the normal anxiety which comes  
12 from being incarcerated, locked up, put in maximum security and  
13 various things like this.

14 He was also depressed. I felt, again, that under  
15 the circumstances that this, again, was a normal reaction in  
16 that he should be depressed being where he was. You know, that's  
17 not a very pleasant place to be. So that I did not see these  
18 in terms of his anxiety and his depression as clinically  
19 significant.

20 I saw them rather as a reaction to environment and  
21 being incarcerated and so forth.

22 The most, I think, disturbing aspect of -- came in  
23 regards to his ability to show remorse and to profit from it.  
24 In terms of his ability to show remorse and to profit from  
25 past behavior, past things which happened, he did not seem to



1 be able to.

2 It was profoundly obvious that he did not profit  
3 from past experiences. So, that as I went through the area  
4 which became more and more significant was the area of which  
5 we call "character, personality" and all these things which I've  
6 enumerated. Of course, some others, which could be in the area  
7 of personality and character, not in the area of neurosis or  
8 the area of psychosis, other than I did feel that he showed some  
9 anxiety and depression which are in the neurotic area which  
10 were normal expressions within the circumstances he was in.

11 So that I think, in summary, if I understand  
12 Counselor's question that was predominantly personlity  
13 characteristics that you run into which were predominant.

14 Q All right. And, Dr. Heyrend, in your specialty of  
15 psychiatry, are there particular causation factors for this  
16 area of symptoms that you found in Thomas Creech?

17 A I think there probably are.

18 Q All right. And would you advise us what those are  
19 in your opinion as they relate to Tom Creech?

20 A Yes, I will.

21 Terms of the spectrum of psychiatric disease you've  
22 heard me refer to neurotic disease; which is one area and  
23 psychotic which has to do with the being irrational in sign,  
24 and, of course, you have your mental deficient retardedness,  
25 brain damaged people and, then, their area of personality; which



1 is one of the areas that psychiatrists deal with.

2 The history that you most often see in an individual  
3 such as Mr. Creech is one of a long-term pattern of  
4 maladaptive, or poor adjustment, dating from early childhood.

5 Now, your analysts, psychoanalysts, tend to say  
6 that there had to be a disturbance of the mother-child  
7 relationship, a lack of resolution of the conflicts which  
8 all of us have -- supposed to have. The sociologists tended to  
9 say it was due to bad environment; that these people came from  
10 extremely poor chaotic backgrounds and never had the  
11 opportunity to learn normal coping, people have mechanisms on  
12 how to behave.

13 Then you have another group who still have many  
14 proponents who say that it's constitutional; that they are born  
15 this way, they are the "bad seed" so-to-speak and in this  
16 particular area we've had difficulty with our -- with labeling,  
17 and I think Dr. Hurst referred there to this and, really, what  
18 we have done is we managed to change the name several times.  
19 But, when we use the term "pschopath" it's, really, the same  
20 thing as "sociopath" in this particular case, or antisocial  
21 character, we're talking about the same thing.

22 What happened was that we started off with the  
23 term that these people had "moral insanity" and that didn't  
24 work very well. This was in the middle 1800's and, then,  
25 shifted to "constitutional psychopaths", which held for awhile

1 and, then, we changed to "sociopath" and finally the analysts  
2 wanted to call them "character neuroses" but we're talking  
3 about the same thing.

4 Basically it's a defect in the personality and how  
5 one pursues life. Now, as you go through his history you find  
6 that indeed the poor background, the poor relationships with  
7 the family, many tragedies are all present and that I did not  
8 find any good evidence that he related well to any of his  
9 family, or that there were close sustaining relationships within  
10 the family. As a matter of fact, it would appear that the  
11 relationships within his family were such that it tends to  
12 separate and push the family apart; they lack the cohesiveness  
13 and warmth that many families have.

14 In the terms of the behavior of his immediate family  
15 unit and some of his relatives, or people that lived with him,  
16 we find that they exhibited primitive behavior and, obviously,  
17 did not serve as good models of behavior.

18 As we look at his adjustments in every sphere of  
19 life we find that, yes, he had difficulty in school, not a matter  
20 of intelligence because he's reasonably intelligent; but a matter  
21 of early in life he was a hyperactive, short-attention span,  
22 impulsive child which I'm sure frustrated many people, in terms  
23 of friendships, social adjustment deficiencies there.

24 He never completed his education. In terms of  
25 employment, again, problems in the employment area in stability,

1 impulsive, erratic behavior operation under the principle what  
2 has to be good for him has to be good for somebody else. So,  
3 when he saw it, he wanted it, or took it.

4 So, as you go through the military, again problems  
5 there, AWOL, poor adjustments; although from the technical  
6 standpoint it appears in each area he could function. See, he  
7 could function well in a job, very competent in terms of some  
8 jobs that he's taken in the military, he dispatches. But, as  
9 you know, your AWOL's and, all right there when you have --  
10 when he gets unhappy and, because of this immediate gratification  
11 that he feels this was deserved.

12 In terms of marriage, the same pattern of  
13 difficulties. As we go on, until we find that he has had  
14 difficulty in every single area of his life also because of this  
15 core of personality defect and inability to relate effectively  
16 with people and to be responsible.

17 Q And, Dr. Heyrend, during these many occasions when  
18 you were professionally with Tom for evaluation, did he lie to  
19 you?

20 A Yes.

21 Q Often?

22 A It's kind of difficult to say, but I suspect that  
23 he did frequently.

24 Q However, all of us lie some?

25 A I think this is, probably, true.

1 Q And, Dr. Heyrend, you had the findings of  
2 Dr. Hurst; did you not have, in addition to your own  
3 observations that Tom tends to manipulate?

4 A Oh, yes.

5 Q And how did you, in your approach or evaluating,  
6 see the manipulation tries that Tom Creech made?

7 A He was very good at it as a matter of fact. He  
8 evaded questions, wanted to change the subject, liked to go  
9 around in circles, was very hard to hold to a given point at  
10 times.

11 Also one of the things that he used as a favorite  
12 technique, if you are boring in too hard on one area he likes  
13 to throw something out to distract you, a little tidbit that  
14 you'll grab and get off the subject, see, and get him off the  
15 hook. He's very good at these maneuvers.

16 Q And was this ability to manipulate diminished by  
17 the administering of medication?

18 A It was precisely why we gave him the medication  
19 was to diminish this ability and -- plus the fact that he has  
20 a very difficult time holding for a sustained period of time  
21 on a given subject. He is not what you call a real relaxed  
22 person with a normal attention span.

23 Q You are referring, then, to the unmedicated state?

24 A Yeah. So, consequently, with medication we're able  
25 to decrease the manipulation and to give us some ability to

1 work with him.

2 Q Did you, on the 25th and 26th of September and,  
3 specifically questions to Tom Creech while you had him  
4 medicated and this is in regards to his crime involvement?

5 A I can't remember if those were the dates that we  
6 did.

7 Q Those Thursday and Friday, last Thursday and  
8 Friday in September?

9 A I think those were the days in which the Sheriff  
10 was present. I think you were present at one time.

11 Q Yes, um-hmm.

12 A Yes.

13 Q And did you ask specific questions of him in the  
14 medicated state regarding his involvement in crimes?

15 A Yes, I did.

16 Q Would you relate to us the questions that you asked  
17 and the answers that were given to you by Tom Creech?

18 A Well, I cannot do that specifically because I  
19 do not have the transcript. I can only recall.

20 Q If you would, sir.

21 A Well, there were several areas of which -- into  
22 which we inquired. We inquired into his involvement in the  
23 drug traffic area and how and what part he played in that. In  
24 this discussion it involved his activities in several states.  
25 We asked which states and who the players were that he was

1 involved with.

2 This was an area that we spent considerable time  
3 with.

4 Q And his answers to those areas were what?

5 MR. THOMAS: I object, Your Honor, on the ground that it  
6 hasn't been demonstrated that this is relevant to the  
7 expert opinion.

8 THE COURT: The objection is sustained.

9 Q BY MR. ROBINSON: Dr. Heyrend, did you conduct  
10 this examination under medical -- under medication of  
11 Tom Creech to aid and assist in your overall diagnosis?

12 A Well, in part, yes. Any information that you  
13 obtain, regardless how you obtain it, is valuable in terms of  
14 your clinical impression, oh, that's all.

15 Q Okay. And in being able to make that psychiatric  
16 evaluation, was it necessary for you to determine what was  
17 actually true and what was untrue in part?

18 A That's somewhat difficult to answer. Yes, I, of  
19 course, am interested in what's true and what isn't and what  
20 information is distorted and what isn't in terms of my overall  
21 clinical impression at that particular point.

22 I did not feel that this would alter my impression  
23 greatly except for one area.

24 Q And what area is that?

25 A Well, the area was the session in which we -- which

1 had to deal with his philosophical beliefs, Satanic beliefs,  
2 religious beliefs.

3 Q All right. Then, I believe that I had asked you  
4 for Tom's answers in relationship to your inquiries of his  
5 involvement in the drug traffic and the players involved?

6 A That's true.

7 MR. THOMAS: Same objection, Your Honor.

8 THE COURT: I don't understand he's got a question yet.

9 Q BY MR. ROBINSON: I was getting ready to ask the  
10 question, Your Honor, of Dr. Heyrend.

11 To then go into the answers, Doctor, if you would  
12 then -- what were Tom's answers in that regard as to the  
13 involvement and the players?

14 MR. THOMAS: Objection, Your Honor, both on the form of  
15 the question and, again, on the lack of foundation.

16 THE COURT: Yes, I'm going to sustain the objection.

17 Q BY MR. ROBINSON: Then let's go specifically,  
18 Dr. Heyrend, to the area that you were talking about of the  
19 philosophical beliefs that you inquired about with Tom Creech.

20 MR. THOMAS: Same objection.

21 THE COURT: I'm not sure what question he's asking.

22 I'm going to sustain the objection if that's  
23 supposed to be a question because I don't understand what the  
24 question is.

25 MR. ROBINSON: All right, I'll restate it, Your Honor,

1 and try to make it clear.

2 Q BY MR. ROBINSON: What questions, Dr. Heyrend, did  
3 you ask Tom regarding his philosophies and beliefs and what  
4 answers did he give you?

5 A Well, the questions that were asked, and this was  
6 at the second session revolving around his affiliation with  
7 churches, both Christian churches and other churches, and we  
8 rapidly became involved with that which he called his involvement  
9 with the Satanic church and this he spent a good deal of time  
10 describing.

11 Q And did you ask him his identity at one point in  
12 that session?

13 A I'm not sure what you mean. If you mean did I ask  
14 him what he was functioning as, he functioned as an observer,  
15 a participant and said that he was a priest, or something;  
16 whatever that may be.

17 Q And did he ever identify himself as Satan?

18 A Well, not specifically as Satan. He alluded to the  
19 fact that Satan was within him; which is different, say, you  
20 are Satan or say that Satan is within.

21 Q Please explain the difference that you are making  
22 reference to.

23 A Well, it's not uncommon at all for people to think  
24 that Satan is in them. It's, to various degrees, and this is  
25 pretty common. I hear this very, very frequently. Sir, see,



1 to say that you are Satan is something else again and would  
2 indicate some real distortions of your thought processes to say  
3 that you are Satan. But, that -- it comes in varying degrees.  
4 But, I cannot recall him saying "I am Satan".

5 Q Do you recall him saying that he was  
6 Anton Szandor LaVey?

7 MR. THOMAS: I object, Your Honor. I don't think this  
8 is relevant and that a proper foundation has been laid.

9 THE COURT: Overruled.

10 THE WITNESS: My recollection there is that I think  
11 everyone must recognize that we are in a rather unusual area in  
12 this whole business that he's talking about in terms of  
13 Satanism. But, what it amounted to was that he has come under  
14 the power, the control and the influence of this particular  
15 individual and, therefore, will do the -- do the dictates of.

16 It's a matter of relinquishing control to someone  
17 else; which is, of course, supposedly part of the philosophy  
18 and, here again, this is my interpretation of what he was  
19 saying.

20 I can't recall the exact words; that I'm not sure  
21 the exact words would even be meaningful to me entirely. This  
22 is -- what he was saying was that he was under the influence  
23 and was doing whatever this man wished.

24 Q BY MR. ROBINSON: All right. Now, Dr. Heyrend,  
25 from all of your contacts, professional evaluation with Tom

1 over this period of approximately one year, have you made a  
2 psychiatric evaluation?

3 A Yes, I have.

4 Q And --

5 THE COURT: I think we'll take our noon recess at this  
6 time. We'll be in recess until 1:30, ladies and gentlemen, if  
7 you will remember the admonition, don't discuss the case and  
8 keep your minds open.

9 (Recess taken.)

1 WALLACE, IDAHO, MONDAY, OCTOBER 20, 1975, 1:30 P.M.

2 (Jurors re-entered the courtroom.)

3  
4 THE COURT: Let the record show the jurors are all  
5 present.

6  
7 DIRECT EXAMINATION (Continued)

8 BY MR. ROBINSON:

9 Q Dr. Heyrend, did you specifically order or request  
10 the second psychological testing from Dr. Hurst?

11 A Yes, I did.

12 Q And for what reason?

13 A Well, there were several reasons. I think that  
14 first of all when you are dealing with patients and they are  
15 neurotic, or psychotic, that it's quite easy to make the  
16 diagnosis. But, when you are dealing with complicated  
17 personality disorders, particularly people who are manipulative  
18 and so forth, psychological testing becomes very, very  
19 important because you can get an accurate assessment of the  
20 individual; how they are functioning, what some of their  
21 behavioral patterns are through the testing in a way that they  
22 do not manipulate then because they do not understand the  
23 structure of the tests and really what's going on.

24 So, that these tests are very, very valuable in this  
25 particular group of people, the personality disorders.

1           The other reason is that an inordinately amount of  
2 people with the diagnosis of psychopath, sociopath or antisocial  
3 personality have abnormal electroencephalograms and often are  
4 seen as minimal brain damage, or something of this sort.

5           So, consequently, I asked Dr. Hurst to test and to  
6 do additional tests to rule this out in this matter of brain  
7 damage. So those are the two reasons.

8           Plus the third reason is that to retest after a  
9 period of time and to have the same end result in terms of the  
10 tests is also very helpful in terms of showing that, indeed,  
11 the first set of testing was accurate.

12           In other words, it's always of benefit to retest.  
13 So, those are the basic reasons.

14           Q     All right, sir. And did you do this second  
15 evaluation, the latter part of September, pursuant to an order  
16 of this Court?

17           A     Yes, I did.

18           Q     And what did that order call for you to evaluate?

19           A     Well, as best as I can recall I was to do a  
20 psychiatric evaluation. I was to make a point as to  
21 competency to stand trial, to aid his attorney and so forth.  
22 The standard procedure.

23           Also try to ascertain two points regarding the  
24 alleged crime; one was his ability to develop malice  
25 aforethought and secondly whether or not I could ascertain the

1 state of his mind at the time of the alleged crime.

2 Q All right. And did you cover those subject matters  
3 in your written report?

4 A I covered the matters with the exception of malice  
5 aforethought and I covered his state at the time of the alleged  
6 crime in a way also, but not specifically.

7 Q You say you did or did not cover the area asked  
8 for on malice aforethought?

9 A I did not.

10 Q Why not?

11 A Well, there is some difficulties with that particular  
12 phrase. First of all, it's a legal term, not a psychiatric  
13 term. Secondly, attorneys themselves have differences of  
14 opinion as to what it means and I felt it was best to leave that  
15 out from the standpoint that I felt it was impossible to respond  
16 to in that form.

17 Q And in your opinion could anyone else testify in  
18 that particular aspect related to this set of circumstances?  
19 Involving Tom Creech?

20 MR. THOMAS: Object to the form of the question,  
21 Your Honor.

22 THE COURT: Sustained.

23 Q BY MR. ROBINSON: Dr. Heyrend, did you reduce your  
24 psychiatric evaluation to a written report?

25 A Yes, I did.

1 (Defendant's Exhibit K marked for  
2 identification.)

3 MR. ROBINSON: May I approach the witness, Your Honor?

4 THE COURT: Yes.

5 Q BY MR. ROBINSON: Dr. Heyrend, handing you what's  
6 been marked as Defendant's Exhibit No. K, I'll ask you whether  
7 or not that is a photocopy of your report on the psychiatric  
8 evaluation sent to the person it's addressed to on that date of  
9 8 October, 1975?

10 A Yes, it is.

11 Q And your signature appears thereon? That is a  
12 photostatic copy of your signature?

13 A Yes.

14 Q And who did you deliver the original to?

15 A The original was sent to Lynn Thomas, Deputy  
16 Attorney General.

17 MR. ROBINSON: We ask the admission of Defendant's  
18 Exhibit No. K, Your Honor.

19 MR. THOMAS: We have no objection, Your Honor, and we  
20 further do not object to the photocopy being submitted.

21 THE COURT: K will be admitted.

22 (Defendant's Exhibit K admitted into evidence.)

23 Q BY MR. ROBINSON: Dr. Heyrend, have you done a  
24 psychiatric evaluation in other murder cases and circumstances?

25 A Yes.

1 Q How many altogether?  
2 A I think it would somewhere over, probably, 40, but --  
3 Q How many this year?  
4 A Six.  
5 Q And do you do Sodium Ametol sessions often?  
6 A Yes, I do.  
7 Q For whom?  
8 A Well, majority of them are for law enforcement  
9 people, the penitentiary and they have individuals that wish to  
10 undergo -- as they will call it, a "truth serum interview".  
11 Q And in this particular case involving Tom Creech,  
12 who did you perform the Sodium Ametol sessions for and on  
13 behalf of?  
14 A The request was through the Attorney General's  
15 office and the Ada County Sheriff.  
16 MR. ROBINSON: If I may approach the witness again,  
17 Your Honor?  
18 THE COURT: Yes.  
19 Q BY MR. ROBINSON: I hand you, Dr. Heyrend, what  
20 has been marked for identification as Defendant's Exhibit No. 1  
21 that has been identified as the Satanic Bible by  
22 Anton Szandor LaVey.  
23 Hypothetically, if a person reads and digests and  
24 accepts this book as their philosophy and discipline, will this  
25 affect that person's actions, as a psychiatrist?

1 MR. THOMAS: Objection, Your Honor, to the form of the  
2 question. It has nothing to do with expert testimony on the  
3 issues in this case.

4 THE COURT: Sustained.

5 Q BY MR. ROBINSON: Dr. Heyrend, in regards to  
6 Thomas Eugene Creech and your doing the psychiatric evaluation  
7 and study, what affect, if any, would his accepting this book  
8 as a discipline and philosophy have upon him?

9 MR. THOMAS: Objection, lack of foundation.

10 THE COURT: Yes, I'm going to sustain the objection.

11 MR. ROBINSON: You may examine, Counsel.  
12

13 CROSS EXAMINATION

14 BY MR. THOMAS:

15 Q Dr. Heyrend, are you certified as a specialist in  
16 psychiatry by the American Board of Psychiatry and Neurology?

17 A No.

18 Q You practice in Boise; is that correct?

19 A That is true.

20 Q In your testimony, Dr. Heyrend, you refer to  
21 Mr. Creech as having the ability to manipulate persons and I  
22 believe your testimony was you thought he was pretty good at it.

23 Was he successful in manipulating you?

24 A I suspect that he may have well been successful in  
25 manipulating me on some questions.



1 Q But, you detected, eventually, that he was  
2 manipulating you; is that correct?

3 A Well, I would assume that I did or I couldn't  
4 arrive at the diagnostic impression which I did.

5 Q Well, it isn't really the mark of a good  
6 manipulator, is it, that a manipulator is caught in his attempted  
7 manipulation?

8 A I don't exactly understand the question.

9 Q Perhaps, really, all I'm getting at is that you did  
10 then detect he was trying to manipulate you, is that right?

11 A That's true.

12 Q Did you find, in the course of your examination,  
13 any significant or serious mental illness?

14 A No. As I stated in my report, I found no evidence  
15 of psychosis or neurotic disease.

16 Q You made some mention during the course of your  
17 testimony of Sodium Ametol interviews.

18 It is correct, is it not, this is not really a  
19 truth serum under which a person will be compelled to tell the  
20 truth?

21 A No, that's very true.

22 Q And the defendant, had he desired to do so, even  
23 under Sodium Ametol, could conceivably have retained the  
24 capacity to tell falsehoods if he had wanted to do so; is that  
25 also correct?

1           A.     Well, I think as I explained it rather carefully,  
2     you diminish his capacity to retain this control. That's why  
3     you do it.

4                 As far as ever eliminating all of the control, you  
5     can't. It's a relative matter, see.

6           Q     Well, a person who is intoxicated on alcoholic  
7     beverage loses his capacity, or diminishes in some respects,  
8     his capacity to maintain control in that sense; does he not?

9           A     Yes.

10          Q     But even a person who is influenced by alcohol could  
11     retain the capacity to tell lies if you wanted to accept that  
12     affect?

13          A     This is true.

14          Q     And this is also true of Sodium Ametol; isn't it?

15          A     Um-hmm, that's true.

16          MR. THOMAS: I have no further questions, Your Honor.

17          MR. ROBINSON: We have no further questions, Your Honor,  
18     and at this time Defense will have to take matters up outside  
19     of the presence of the jury on offers of proof.

20          THE COURT: All right.

21                 We'll excuse you briefly, ladies and gentlemen.  
22     If you will remember the admonition, don't discuss the case and  
23     keep your minds open.

24          MR. ROBINSON: May I inquire of the Court? Dr. Heyrend  
25     wishes to be, as does Dr. Hurst, released by the Court. Do

1 you have any objection?

2 MR. THOMAS: No objection.

3 THE COURT: Well, we'll take that up later, too.

4 MR. ROBINSON: All right, sir.

5 THE COURT: Don't discuss the case, ladies and  
6 gentlemen, and keep your minds open.

7 (Jury left the courtroom.)

8 THE COURT: I don't have any objection to those two  
9 witnesses being excused if the offers of proof don't deal with  
10 their testimony. If the offers of proof deal with their  
11 testimony I think they'd better remain available in case I  
12 require further testimony pursuant to the offers of proof.

13 If you've represented to me the offers of proof  
14 aren't going to involve Dr. Heyrend's testimony or Dr. Hurst's,  
15 well, then, I'll let them go.

16 MR. ROBINSON: Well, Your Honor, perhaps a short bit of  
17 testimony from Dr. Heyrend would assist in establishing the  
18 other representation I'll make to the Court in reference to the  
19 offers.

20 THE COURT: Yes.

21 MR. ROBINSON: Dr. Heyrend, would you take the stand  
22 again, please. Dr. Heyrend, would you retrieve the Satanic  
23 Bible on your way up.  
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EXAMINATION (Offer of Proof)

BY MR. ROBINSON:

Q Dr. Heyrend, I had asked you in the presence of the jury the question of whether or not the accepting of this book as a philosophy and discipline by a person such as Tom Creech would affect his behavior and be a basic causation for things that he does.

I again propound that question to you now.

THE COURT: I'd better -- perhaps you misunderstood the ruling of the Court, Mr. Robinson. I sustained the objection based on no proper foundation and the reason I sustained the objection, I don't understand your foundation includes whether Dr. Heyrend had ever read this book. I don't see how he could express an opinion on it if he hasn't read it. So, I didn't -- that was the sole basis for my ruling.

MR. ROBINSON: Yes, Your Honor.

Q BY MR. ROBINSON: Dr. Heyrend, have you read this particular book?

A No, I haven't.

THE COURT: Do you know of its philosophy?

THE WITNESS: Only that which Mr. Creech told me.

Q BY MR. ROBINSON: All right. And you had not read the book in order to substantiate or verify the facts that he told you that were actually contained in this book?

A No, I had not.

1           Q     Then, hypothetically, Dr. Heyrend, if I  
2 represented to you that this book, basically, discusses the  
3 philosophy that there is no life hereafter and that the total  
4 philosophy is indulgence, indulgence today, do whatever you  
5 want to do, there is no punishment, your life and rewards are  
6 here at this time on this earth and, basically, that simply  
7 stated, is the philosophy spelled out in this book.

8                     Would this reading of this book and accepting it as  
9 a philosophy and his discipline, affect his behavioral patterns?

10          A     No. After all of my time with Mr. Creech, my  
11 work with him, I really do not think that this book is going to  
12 make that much difference in terms of his behavioral patterns.  
13 What he responds to are people and relationships and he, like  
14 everyone else, wants acceptance and, if he were to receive  
15 acceptance and feel like he was part of something and was given  
16 some recognition through this type of activity he would respond  
17 to this rather than the book.

18                     He did express, essentially, what you did in terms  
19 of the basic philosophy but it's not the philosophy that he's  
20 responding to. It's people that he associates with that are  
21 in this movement if this is where he is.

22          Q     You mean the people who were involved in the  
23 Satanic Cult?

24          A     Yes, yeah, the people that are involved in the cult.

25          Q     Such as Szandor LaVey?

1           A.     Szandor LaVey, sure.

2           MR. ROBINSON: All right, that's all the questions I

3 had of Dr. Heyrend in this regard, Your Honor.

4           THE COURT: State wishes to cross-examine at this

5 point?

6           MR. THOMAS: No, Your Honor. I would -- don't want him

7 excused because we don't know which way this is going.

8           THE COURT: Do you want to offer this to the jury? Is

9 this what your proposed test is?

10          MR. ROBINSON: This would be a basis, Your Honor, as to

11 the offer of proof that I now make in relationship to three

12 other witnesses.

13          THE COURT: Oh, I see. But, you aren't proposing at

14 this time that this testimony that was just elicited be

15 presented to the jury?

16          MR. ROBINSON: No.

17          THE COURT: That isn't your desire?

18          MR. ROBINSON: That isn't my desire.

19          THE COURT: And you are not reoffering the Exhibit?

20          MR. ROBINSON: On the basis of this testimony I would

21 reoffer it, Your Honor, at this time.

22          THE COURT: Any objection?

23          MR. THOMAS: Yes, the same objection as before.

24          THE COURT: I'm going to sustain the objection.

25          MR. ROBINSON: All right.

1 THE COURT: That's the only offer you have in connection  
2 with --

3 MR. ROBINSON: With this.

4 THE COURT: -- with this present testimony?

5 MR. ROBINSON: With the present testimony, yes,  
6 Your Honor.

7 THE COURT: All right, you may step down, then.

8 MR. ROBINSON: Then, Your Honor, my offer of proof goes  
9 basically to that which the Court stated and I have discussed  
10 with the Court, prior to this time, and this is, specifically,  
11 the testimony of Bishop King of the Episcopal Church and  
12 Bishop Treinen of the Catholic Church of Idaho and the testimony  
13 of Anton Szandor LaVey.

14 Their testimony relating to Christianity and its  
15 principles, the realism of God, the realism of Satan and, of  
16 course, designated by their particular offices that they do  
17 hold and the office held by self-appointed Black Pope  
18 Szandor LaVey of the Satanic Church in San Francisco.

19 I'm sure that the Court is aware, specifically,  
20 what their testimony would relate to in that regard with the  
21 two Bishops testifying as to the total aspects of Christianity  
22 and the converse side by LaVey testifying about the realism and  
23 the practice of Satan presently here on earth as a realistic  
24 thing that has taken place.

25 The purpose of the offer of proof is, Your Honor,

1 the oscillation that has been testified to that Tom Creech is  
2 first on one side of the fence and, then, the other side of the  
3 fence, the internal mental struggle that is apparent from  
4 outward actions and from comments and statements that he has made.

5 THE COURT: Any objection to that proof being given?

6 MR. THOMAS: We do object to the proof being given,  
7 Your Honor, because no showing of relevancy of any of this  
8 material has been made.

9 Medical evidence experts did not testify that any  
10 of it was critical to their diagnoses of mental disease or  
11 defect or the lack of it and it simply has not been shown that  
12 Mr. Creech's philosophy and religion or existence or non-existence  
13 of Satan has anything to do with the issues before the Court  
14 in this case.

15 THE COURT: Objection sustained.

16 MR. ROBINSON: Your Honor, I have one further offer of  
17 proof that I would have submitted to the Court by testimony.  
18 It's Mr. Ned Stewart, polygraph operator, former police officer  
19 and --

20 THE COURT: Just -- excuse me just a minute, Mr. Robinson.

21 I suppose now we could let Dr. Heyrend and  
22 Dr. Hurst leave if they wanted to if that's the extent of your  
23 offers.

24 MR. ROBINSON: That is the extent of the offer and any  
25 testimony I would have.



1 THE COURT: Unless the State may have any objection, do  
2 you have any objection to Dr. Heyrend and Dr. Hurst leaving?

3 MR. THOMAS: No, we have none, Your Honor.

4 THE COURT: All right, Dr. Heyrend and Dr. Hurst may  
5 be excused if you wish to leave, then.

6 Go ahead with your offer, then.

7 MR. ROBINSON: And Mr. Stuart has been called, he left  
8 at 1:00 from Coeur d'Alene and I told him that I would be ready  
9 for him here about 2:00. I don't see him yet in the courtroom  
10 and I'm not --

11 VOICE: He is here.

12 MR. ROBINSON: He is here?

13 Would you come forward, Mr. Stuart.

14  
15 EDWIN ZARING STUART,  
16 called as a witness on behalf of the defendant on an offer of  
17 proof, being first duly sworn, took the stand and testified as  
18 follows:

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1 EXAMINATION (Offer of Proof)

2 BY MR. ROBINSON:

3 Q Would you state your full name, please.

4 A Edwin Zaring Stuart.

5 Q And your address is what, Mr. Stuart?

6 A Route 1, Box 261, Cataldo, Idaho.

7 Q And what is your occupation?

8 A I'm the criminalist at North Idaho College.

9 Q And what do you mean by "criminalist"?

10 A A criminalist is a person that applies scientific  
11 principles and processes to physical evidence with the attempt  
12 to identify and compare.

13 Q All right, sir. And how long have you held this  
14 office, or this status with the North Idaho College?

15 A As criminalist for three years.

16 Q And are you engaged in this full time?

17 A Yes, I am.

18 Q And are you, besides that -- excuse me, strike that.

19 Are you an instructor or professor at the North  
20 Idaho University?

21 A Yes, part of my duties as criminalist is to  
22 instruct in various law enforcement and mathematical courses  
23 down at North Idaho College.

24 Q And are you also engaged in a private practice;  
25 that is, are your services available for hire by persons who

1 want to use your service?

2 A. If it's on my time, yes.

3 However, the Criminalistics Center office, you are  
4 inferring, I assume, to polygraph?

5 Q. Yes.

6 A. Polygraph service to any members of the criminal  
7 justice system, whether it's the prosecution or the defense and  
8 this is free of charge to that particular person or  
9 institution.

10 Q. I see, sir. All right. Now, a part of your  
11 duties, are they engaged in the operation and interpretation of  
12 polygraph?

13 A. Yes, it is.

14 Q. First of all, Mr. Stuart, would you advise us of  
15 your background in law enforcement?

16 A. I've been an active police officer for nine years,  
17 city, state and federal organizations. I have been a polygraph  
18 examiner and criminalist for Coeur d'Alene Police Department  
19 up until February of this year, term of five years. I've been  
20 instructing at North Idaho College and for the State of Idaho  
21 in various law enforcement courses for the last six years.

22 Q. And what is the nature of your formal education  
23 prior to becoming involved in law enforcement?

24 A. I have a Master's Degree in applied science, the  
25 applied science course is, basically, a course requiring three

1 majors and one minor in the four disciplines of science;  
2 physics, chemistry, math and biology. My majors are in math,  
3 chemistry and biology and minor is in physics.

4 Q All right. And did you have occasion to become  
5 acquainted with Thomas Eugene Creech?

6 A Yes, I did.

7 Q The man sitting here at my table?

8 A Yes, sir.

9 Q And how long ago was that, Mr. Stuart?

10 A First time I met Mr. Creech was about the 10th or  
11 12th of August at your request, sir. I met you and Mr. Wickersham  
12 in Wallace to interview Thomas Creech.

13 Q All right. And since August of this year, 1975, how  
14 many times and at what frequency have you talked and interviewed  
15 Tom Creech?

16 A See, I was -- I came to Wallace to interview Tom on  
17 the 15th of August, the night before I left on a vacation. I  
18 was gone for three weeks; which would bring us up until about  
19 the 2nd of September and, then, I would say at least once a  
20 week since the 2nd of September, up until the starting of the  
21 polygraph sessions.

22 Q All right. And did you conduct polygraph sessions  
23 with Tom Creech?

24 A Yes, I did.

25 Q When?

1 A Tuesday, Wednesday and Thursday, I'm not sure of the  
2 exact day. I believe it was two weeks ago.

3 Q Would that have been September 30th, October 1st and  
4 2nd?

5 A Yes, it would.

6 Q And for about how many days in succession did you  
7 conduct these tests?

8 A We had a four-hour session on Tuesday, a five-hour  
9 session on Wednesday and another four-hour session on Thursday.

10 Q All right. And did you -- would you describe the  
11 nature of his cooperation for these tests?

12 A Tom cooperated 100 per cent with the examinations.  
13 I'll have to qualify that in that there were times during the  
14 examination when Tom, because of something, wasn't with me on  
15 the polygraph because of other things that were going on, only  
16 he knows about. I'm not sure.

17 But, we could bring him back and continue with the  
18 examinations without any further difficulty.

19 Q All right. And before going into this, the tests  
20 specifically, did you determine whether or not he was a  
21 person who reacted to the polygraph?

22 A Yes. Prior to each session I ran a test with Tom  
23 to determine if he would react to a deceptive situation and  
24 found that Tom was an excellent reactor.

25 Q All right. What do you mean by "excellent reactor"?

1 A Tom gave an emotional response on lie situations;  
2 even though the lies themselves were not too meaningful.

3 Q All right. And, specifically, what is a polygraph  
4 test?

5 A Polygraph examination is a monitoring of a person's  
6 physiological processes under stress situations as brought about  
7 in life situations.

8 Q Are there particular measuring devices that are  
9 used in the polygraph test?

10 A Yes, there is.

11 Q What are they supposed to monitor, or measure?

12 A The particular instrument that I use, the  
13 Lafayette Four, measures the upper and lower thoracic movement,  
14 breathing and upper and abdominal area. It measures the  
15 heart beat, blood pressure and any change in the amplitude of  
16 the heart beating itself. In addition there's the galvanic  
17 skin response; which is a reaction to a flow of -- electrical  
18 current through the fingers.

19 Q Okay. Is that --

20 A Those are the four.

21 Q Those are the four? And each of these devices --  
22 each of these systems are measured by the device?

23 A Yes, they are.

24 Q Within the operator's giving a polygraph test,  
25 Mr. Stuart, are there different modes, or methods, followed by

1 the operators to give the test; or is it a standard test?

2 A. There are standard tests that we use, yes, and, of  
3 all the standard tests that we have, I utilized three different  
4 types.

5 Q. Would you name the three types that you did use?

6 A. I used a Searcher Peak of Tension test, a General  
7 Series test and a Relevant-Irrelevant test.

8 If I may, at this time, it's probably proper,  
9 "Polygraph Examiner", a person prefers this usage rather than  
10 "operator".

11 Q. All right. Thank you for that correction.

12 And besides those three you just named, Mr. Stuart,  
13 did you use any non-standard test or test devised and designed  
14 by yourself?

15 A. Well, all the tests were designed for myself to fit  
16 the particular person. But, they followed a general pattern and  
17 the purpose of these particular types of tests is to let other  
18 examiners know what we're doing and where we're liable to find  
19 a deception situation if possible.

20 For instance, on the General Series question three,  
21 five, seven are relevant questions, six, nine are control  
22 questions and, then, with this restriction we then build whatever  
23 questions we feel necessary to obtain what information we're  
24 after.

25 Q. All right. And, Mr. Stuart, did you ask specific

1 questions of Tom Creech relating to his crime background, his  
2 drug involvement and the Satanic matters?

3 A. Yes, I did.

4 Q. And did you reduce your results from your tapes to  
5 a written report?

6 A. Yes, I did.

7 MR. ROBINSON: If I may, Your Honor.

8 (Defendant's Exhibit L marked for identification.)

9 MR. ROBINSON: May I approach the witness, Your Honor?

10 THE COURT: Yes.

11 Q. BY MR. ROBINSON: Mr. Stuart, handing you  
12 Defendant's Exhibit No. L, I'll ask you to examine that  
13 document and advise us whether or not that is your written  
14 report made of your polygraph examination of Thomas Eugene Creech?

15 A. Yes, this is a typewritten copy of a handwritten  
16 report that I gave to you.

17 Q. And your handwritten report was typed? You haven't  
18 had an opportunity to sign that original as yet?

19 A. No, I have not.

20 Q. Would you sign it, please.

21 A. Um-hmm. (Witness complied.)

22 MR. ROBINSON: We would ask the admission, Your Honor,  
23 for this offer of proof for Defendant's Exhibit No. L; limited  
24 to the offer of proof until the Court has made a total ruling  
25 whether or not this testimony will be allowed to the jury.



1 THE COURT: Well, it can be admitted as part of the  
2 offer of proof, yes.

3 (Defendant's Exhibit L admitted, for limited  
4 purposes, into evidence.)

5 Q BY MR. ROBINSON: Now, Mr. Stuart, based upon your  
6 experience and your expertise in the field of polygraph  
7 investigator, were the results that you obtained from that, in  
8 your opinion, reliable?

9 A Yes, they were.

10 Q And have you taken verbatim, from the different  
11 tests, the four-way tests, all of the information and related  
12 it, specifically, to the proper question that was propounded?

13 A I'm afraid I don't understand that question.

14 Q Have you reduced the information as you got it to  
15 the type specifically to each of the proper questions?

16 A Yes.

17 Q As set forth in your report?

18 A Um-hmm, I have.

19 MR. ROBINSON: You may examine.

20 MR. THOMAS: Thank you.

21

22

23

24

25

1 EXAMINATION (Offer of Proof)

2 BY MR. THOMAS:

3 Q Mr. Stuart, do you know how extensively the  
4 defendant was interrogated prior to the conducting of your  
5 examination?

6 A No, I do not.

7 Q Do you know whether he was interrogated on the  
8 polygraph prior to your examination?

9 A No, I do not. I'm sorry, I asked Tom if he was and  
10 he said "Yes", he had been.

11 Q Isn't it a fact, Mr. Stuart, that in a lying, or  
12 guilt subject unresponsiveness to the polygraph examination may  
13 result from extensive interrogation prior to the test?

14 A Not necessarily, no.

15 Q Do you not agree with that assertion?

16 A I do not agree with this. May I qualify that?

17 Q Yes.

18 A If you are saying that extensive interrogation on  
19 the polygraph in one session --

20 Q No, I'm saying over a period of time previous to the  
21 examination that you conducted.

22 A No, I don't believe so.

23 Q If the defendant lacked fear of the detection in a  
24 lie would that have an effect on the polygraph exam?

25 A Lacked fear of detection of a lie?

1 Q If he didn't care whether anybody found out that he  
2 was lying or not, would that have an effect on the result?

3 A Yes, it would.

4 Q Do you have any knowledge of whether this defendant  
5 lacked such fear?

6 A The -- through my questioning of Tom before  
7 polygraph examinations I felt that Tom was quite anxious that  
8 I should find him truthful, not in just the polygraph, but in  
9 everything that he told me.

10 Q Is it also not a fact that a defendant who rationalizes  
11 crimes, or believes that they are justified in some way or  
12 another, may also affect the outcome of the polygraph  
13 examination when questioned about those specific crimes?

14 A Now, we are discussing two different things here,  
15 sir. You are talking about a crime that he's lying about, a  
16 crime and whether he is fearful of deception of a lie regardless  
17 of his feeling towards the crime. If he had some feeling towards  
18 the facts he's lying, he's going to react to the polygraph.

19 Q Now, in respect to your examination may I ask you if  
20 you are satisfied that you had all the necessary information  
21 in advance of conducting this examination that you needed to have  
22 in order to conduct a reliable examination?

23 A I felt that I had enough to allow me to take  
24 credence in the questions that I asked. No, I did not have a  
25 complete background on Mr. Creech. Very seldom a polygraph

1 examiner does have a complete background on a subject.

2 Q Did you make any inquiry into whether the defendant  
3 had any physiological abnormality such as high or low blood  
4 pressure?

5 A Yes, I did.

6 Q What inquiries did you make?

7 A He felt that he was, physically and mentally and  
8 emotionally, capable of taking the polygraph examination.

9 Q You relied entirely on the defendant for that  
10 information?

11 A I had nobody else to give it to me.

12 Q So, if he happened to have high blood pressure, or  
13 extremely low blood pressure and lied to you about that, you  
14 wouldn't know whether he was giving you accurate information  
15 or not?

16 A Well, the high blood pressure or the low pressure  
17 would not alter the findings in the polygraph. If he were to  
18 have an alternating high and low blood pressure during the  
19 course of the exam then, of course, there would be some  
20 problem. But, we're not interested in what his blood pressure  
21 is, we're interested in is there a change in the blood pressure.

22 Q Mr. Stuart, do you dispute the theory that  
23 physiological abnormalities such as extremely high or low blood  
24 pressure constitute a difficulty in the diagnosis of deception  
25 by the polygraph?

1           A.    No, but you are adding "extremely high" and  
2 "extremely low" and I did not say "extremely high".

3           Q.    But, you didn't find out this from any independent  
4 medical source, did you?

5           A.    No, but I did have the indications of the polygraph  
6 itself; which certainly will not react in abnormally high or  
7 abnormally low situation.

8           Q.    Could you determine whether the defendant suffered  
9 from heart disease or any respiratory disorder?

10          A.    No, sir.

11          Q.    Did you make any inquiry from any independent  
12 medical source as to that information?

13          A.    No, sir.

14          Q.    Did you determine whether he had any mental  
15 abnormalities?

16          A.    You are going to have to qualify that question for  
17 me, sir.

18          Q.    Did you make any independent inquiry into any  
19 possibility of any mental abnormalities?

20          A.    You are going to have to define "mental abnormality".  
21 A man that confesses to 55 crimes, in my opinion, has a mental  
22 abnormality.

23                Are you implying to some particular mental disorder  
24 that would render the polygraph unusable? I don't know what  
25 you mean.

1 Q Did you ask for any medical evidence as to the  
2 state of his mind, his mental competence?  
3 A His mental competence to take the exam?  
4 Q Yes.  
5 A No, sir, I did not.  
6 Q Has your polygraph exam, to your knowledge, been  
7 compared with similar tests performed by anyone else, same  
8 questions?  
9 A No, sir, not to my knowledge.  
10 MR. THOMAS: I have no further questions, Your Honor.  
11 MR. ROBINSON: I have no further questions, Your Honor.  
12 MR. THOMAS: Object to the offer of proof. I'm sure  
13 polygraph evidence has never been admitted in this State and  
14 even in the few states that have admitted it under certain  
15 circumstances, this offer does not meet those qualifications.  
16 If the Court desires, I can submit a number of  
17 cases on that point. I think that it's clear that in this  
18 State polygraph evidence has never been admissible.  
19 THE COURT: Well, we discussed this before among  
20 Counsel and we're aware it was going to come up so I don't need  
21 further argument.  
22 I'm going to sustain the objection.  
23 MR. THOMAS: Thank you.  
24 MR. ROBINSON: Thank you, Your Honor. You may step  
25 down, Mr. Stuart.

1 THE WITNESS: Will the Court be needing me in the future?

2 THE COURT: I think Mr. Stuart would like to be excused  
3 unless Counsel have --

4 MR. ROBINSON: Yes, we would so stipulate.

5 MR. REMAKLUS: Yes, he may be excused.

6 THE COURT: You may be excused, Mr. Stuart.

7 MR. ROBINSON: Defense rests, Your Honor.

8 THE COURT: We will take an additional 15 minutes before  
9 we start again.

10 (Recess taken.)

11 THE COURT: I understand you had something further to  
12 present before you rested, before the jury, Mr. Robinson?

13 MR. ROBINSON: Yes, Your Honor. I move the resubmission  
14 of Defendant's Exhibits A and B, the rap sheets on Arnold and  
15 Bradford at this time. I believe that we've laid a basic  
16 foundation relative to those two documents on Tom's testimony  
17 regarding previously having met both of the men and having his  
18 own knowledge that they were involved in crime at the time.

19 MR. REMAKLUS: We'd renew our same objection. Nothing in  
20 either of the reports to show violent crimes or crimes of a  
21 violent nature.

22 THE COURT: I'm going to overrule the objection and  
23 admit Exhibits A and B.

24 (Defendant's Exhibits A and B admitted into  
25 evidence.)

1 MR. ROBINSON: And, Your Honor, we move that State's  
2 Exhibit No. 49 in its entirety be admitted into evidence rather  
3 than just the excerpt that the Court has allowed in prior to  
4 this time; that being the discussion of this transcript of  
5 a tape between Sheriff Palmer and Tom Creech so that the actual  
6 area of the identity and involvement is taken in context,  
7 proper context with the balance of that interview that was  
8 transcribed.

9 THE COURT: Well, I instructed the jury this was only to  
10 be admitted for purposes of impeachment and not as bearing on  
11 the guilt of the defendant. You want it offered for all  
12 purposes now?

13 MR. ROBINSON: Yes, Your Honor.

14 THE COURT: In other words, you are waiving your right  
15 to have the portion that relates to the specific charge being  
16 tried here to impeachment purposes?

17 MR. ROBINSON: Yes, Your Honor.

18 MR. THOMAS: We are not offering any more than we  
19 offered before, Your Honor.

20 THE COURT: Well, you want to limit your offer just to  
21 what was offered before and limit it to impeachment purposes,  
22 is that right?

23 MR. THOMAS: That's correct, Your Honor.

24 MR. ROBINSON: May I be heard in that regard?

25 THE COURT: Yes.



1 MR. ROBINSON: Originally, Your Honor, the State moved  
2 for 49 for all purposes and, then, later, remitted it for  
3 impeachment purposes and, since they had moved the admission  
4 for the general purpose it seems to me that the matter itself,  
5 taken out of context, would be more prejudicial to the  
6 defendant than it would since the jury has heard about all of  
7 the other circumstances from Tom's testimony himself; that this  
8 particular taped interview between Sheriff Palmer and Tom Creech  
9 should be entered in its entirety so that that particular  
10 portion relating to the Idaho circumstances are properly  
11 measured in the manner and the way in which the entire tape  
12 was made and not just an excerpt.

13 THE COURT: To keep the record clear on this matter I'm  
14 going to treat the State's offer of the limited portion as a  
15 separate matter to be considered on their rebuttal evidence  
16 and, if you want to have the entire matter marked as your  
17 Exhibit and offered it as your Exhibit, then that's a different  
18 matter, I think. But, I'm not going to let you change the form  
19 of the State's offer what they've offered at this time.

20 In other words, based upon your objection when they  
21 originally offered the Exhibit I sustained your objection for  
22 the purpose it was offered. They have, therefore, lost that  
23 opportunity to get it in in the original form they offered it  
24 and they've rested without having been able to do that.

25 MR. ROBINSON: All right.

1 THE COURT: And, so, at this point in the proceedings,  
2 procedurally they are limited now to only offer that one portion  
3 as impeachment testimony and for that limited purpose and I  
4 think they've, in effect, been prejudiced by not being able to  
5 put it in when they originally offered it in the form they  
6 offered it and with the witness on the stand here.

7 If you want to now present your own Exhibit and  
8 offer your own Exhibit, why, then, that's a different matter.  
9 I'll rule on that as an independent matter.

10 MR. ROBINSON: Well, it was --

11 THE COURT: I'm not going to enlarge the State's offer  
12 at this point; which has already been ruled on.

13 MR. ROBINSON: All right, and it's my understanding,  
14 Your Honor, they had taken the excerpt, or were going to take the  
15 excerpt out from the middle of Page 47?

16 THE COURT: Yes.

17 MR. ROBINSON: All of Page 48 and 49?

18 THE COURT: Right.

19 MR. ROBINSON: And it is also my understanding that the  
20 entire document was marked as State's 49?

21 THE COURT: Right.

22 MR. ROBINSON: And I would then ask that this be marked  
23 as Defendant's Exhibit M.

24 THE COURT: M?

25 MR. ROBINSON: Yes, and move its admission in its entirety.

1 THE COURT: Do you have another copy of this -- do you  
2 have the excerpt that you wanted to use as 49 that we could --

3 MR. THOMAS: It hasn't been cut out and --

4 THE COURT: You don't have another copy of this, do you?

5 MR. ROBINSON: No, I don't, sir.

6 THE COURT: Do you have another copy of this entire  
7 transcript?

8 MR. REMAKLUS: Yes, Your Honor. Mine has marks on it  
9 but I do have a copy. I've made some written notations on it.

10 THE COURT: For the record I'll have what has been marked  
11 for limited purposes as State's Exhibit 49 also deemed marked as  
12 Defendant's Exhibit M; including the entire document.

13 Do you have any objection to this being admitted  
14 as Defendant's Exhibit M?

15 MR. THOMAS: No objection, no.

16 THE COURT: All right, Defendant's Exhibit M will be  
17 admitted, then.

18 MR. THOMAS: I'm sorry, Your Honor, I thought what you  
19 were asking is whether we had any objection for your  
20 considering it for a purpose of offer.

21 THE COURT: Yes.

22 MR. THOMAS: We do have an objection to the admission  
23 of the entire document because our offers of other criminal  
24 evidence have been limited on those that we felt were relevant  
25 to demonstrate a common pattern or identity which fell in with

1 the case law relating to the admission of other crime evidence.

2 We don't believe that is applicable to these other  
3 pieces of information contained on here and our objection is  
4 based on the ground of relevancy.

5 THE COURT: Well, I'm going to sustain the objection.  
6 The record may show that Exhibit M -- what's been deemed marked  
7 as Exhibit M is denied.

8 THE CLERK: It was never marked, do you want it marked?

9 THE COURT: No, I think the record will just have to  
10 stand as it is with it being deemed marked.

11 Do you have any further evidence, Mr. Robinson?

12 MR. ROBINSON: Nothing further, Your Honor.

13 THE COURT: State ready to proceed with rebuttal?

14 MR. REMAKLUS: Yes, Your Honor.

15 THE COURT: Bring in the jury.

16 (Jury re-entered the courtroom.)

17 THE COURT: Show the jurors are all present.

18 MR. ROBINSON: Your Honor, for the purposes of the  
19 record in the presence of the jury, the defense rests.

20 THE COURT: State may call its first rebuttal witness,  
21 then.

22 MR. REMAKLUS: Call Dr. Estess.  
23  
24  
25

1 MICHAEL EGLING ESTESS,  
2 a witness called on behalf of the State, being first duly sworn,  
3 took the stand and testified on rebuttal examination as follows:  
4

5 DIRECT EXAMINATION

6 BY MR. REMAKLUS:

7 Q State your name, please.

8 A Michael Egling Estess.

9 Q And where do you live, Dr. Estess?

10 A I live in Boise, Idaho.

11 Q And what is your profession?

12 A I'm a physician licensed to practice medicine and  
13 surgery in the State of Idaho; specializing in the practice of  
14 psychiatry.

15 Q And, Doctor, what is your educational background  
16 for this profession?

17 A I did my undergraduate training at the University  
18 of Texas in Austin, in four years of medical school, a year of  
19 internship; which was a straight year of internal medicine and  
20 three years of psychiatry and neurology at the University of  
21 Texas Medical Branch, John Seeley Hospital in Galveston, Texas.

22 I'm also certified in psychiatry by the American  
23 Board of Psychiatry and Neurology.

24 Q And how long have you been engaged in the practice  
25 of psychiatry?

1           A.    I completed my formal residency in 1970 and served  
2 for two years in the U.S. Air Force where I was director of the  
3 psychiatric service for the hospital there at Mountain Home  
4 Air Force Base. I was then engaged in the private practice for  
5 a year in Houston, Texas, and have been in the -- engaged in the  
6 private practice in Boise, Idaho for just over two years.

7           Q.    And do you belong to any professional societies and  
8 do you hold any offices therein?

9           A.    Yes, I do. I'm a member of the American Medical  
10 Association, the American Psychiatric Association, the  
11 Intermountain Psychiatric Association; which is a district  
12 branch of the National Psychiatric Association. I happen to be  
13 secretary-treasurer of that organization. I'm also a member of  
14 the Idaho Psychiatric Society of which I happen to be president.  
15 I'm also a member of the Ada County Medical Society which are  
16 legal-medical societies and several other psychiatric societies  
17 primarily in Texas that are sectional kinds of organizations.

18          Q.    Dr. Estess, have you -- are you acquainted with the  
19 defendant, Thomas Creech?

20          A.    Yes, I am.

21          Q.    And when did you first see him?

22          A.    I first evaluated Mr. Creech at the request of the  
23 Court on December the 12th when I saw him in my office.

24          Q.    Was that 1974?

25          A.    1974, that's correct.

1 Q And did you avail yourself of the service of  
2 Dr. Hurst who testified here this morning?

3 A Yes, I did.

4 Q And did you then conduct a psychiatric evaluation  
5 of the defendant?

6 A Yes, I did.

7 Q And how did you do that? By what means, please,  
8 Doctor?

9 A Well, I originally saw Mr. Creech for the first time,  
10 as indicated, December the 12th and, then, subsequently again  
11 I saw him in the Ada County Jail on the 18th of that month.  
12 Those periods of time were just a little over an hour, probably,  
13 and, then, of course, had him undergo some battery of  
14 psychological testing by Dr. Fred Hurst.

15 I also, as part of my evaluation, reviewed documents  
16 and information that was available to me; previous psychiatric  
17 and psychological examinations, extensively his inpatient time  
18 at the Oregon State Hospital.

19 I also spent a period of time, probably about an  
20 hour and a half with Carol Spaulding who's the young lady with  
21 whom Mr. Creech was at the time of his alleged offenses. I  
22 also reviewed some material which I found quite helpful. It  
23 was provided to me by a reporter of the Idaho Statesman who had  
24 spent some hours obtaining longitudinal personal history from  
25 Mr. Creech's family; that is his siblings, brothers, sisters and

1 people that had known him as he was growing up. Because, in  
2 this particular case, for obtaining reliable information seemed  
3 to be part of the problem.

4 So, that was pretty much the extent of my -- where  
5 I gathered my information and what I did.

6 Q Doctor, you used the phrase "longitudinal  
7 personality history". Would you tell us what you mean, please.

8 A Yes. Essentially what I mean is life-long history.  
9 I think it's important, if one is going to try and focus in on  
10 any specific points in time whether a person may or may not be  
11 mentally ill to have some developmental history; that is, where  
12 he came from, circumstances of his early life as it evolves up  
13 to the present time. That's what I mean by "longitudinal".

14 Q And at the time of your first evaluation, did you  
15 arrive at a conclusion as to his mental condition, Doctor?

16 A Yes, I did.

17 Q And would you tell us what that is?

18 A I think that Mr. Creech represents a personality  
19 disorder, specifically sociopathic personality disorder with  
20 paranoid features.

21 Q Would you explain that, please.

22 A Yes, I would. A personality disorder is just a label  
23 to describe what a person is essentially. A lot has been made  
24 about personality and labeling in the court because, basically,  
25 everybody is a personality. Everybody has one because all a



1 personality is is the sum total of a person's behavior; that is  
2 objectively what he does and subjectively what he feels and,  
3 so, everybody has a personality.

4 The issue is when I was asked to see Mr. Creech was,  
5 did he manifest any evidence of mental illness. The way I look  
6 at things, mental illness includes -- does not include in that  
7 sense a personality disorder and I saw his behavior and the  
8 behavioral kinds of things which he has involved in a process  
9 of his personality which just, essentially, is saying how he  
10 grew up; rather than the product of any serious mental illness.

11 So, in that sense, since he has had such a sort of,  
12 one could say, a great deal of turmoil in his social life, I  
13 would say that much of that that has come about as a result of  
14 just his personality; that is the way he tends to handle  
15 himself in the world in -- almost in a sense, personality  
16 diagnosis is a social diagnosis, it kind of allows you to  
17 explain why people do the things they do. But, it doesn't  
18 specifically say that what they do is not the result of any  
19 mental disease or defect for which they are not responsible.

20 Q And did you make any subsequent evaluation of the  
21 defendant after the December, 1974 interviews?

22 A I only saw Mr. Creech episodically as he was around  
23 our office. I did, in August, go and check with -- again with  
24 the Sheriff who I consulted with before and checked with  
25 personnel in the jail where Mr. Creech was incarcerated.

1           Number one, to see whether or not there had been  
2 any change in his behavioral patterns in the jail; which might  
3 reflect in him developing some emotional problems as a result  
4 of all the interrogations. I also checked with the Sheriff at  
5 that time with regards to specifics of again factual kinds of  
6 information which they had come up with; just to double check  
7 my own previous evaluation with regards to what I thought were  
8 facts in this case.

9           I also, when he was re-evaluated at the request of  
10 the Court by Dr. Hurst, I did specifically go over with Dr. Hurst  
11 in September of this year all of the psychological reports and  
12 material; not only from when we evaluated him initially in  
13 December, but also when he was re-evaluated in September by  
14 Dr. Hurst. So, to that extent I have re-evaluated the  
15 circumstances.

16           Q     And have you arrived at any conclusion as a result  
17 thereof?

18           A     Yes, I have.

19           Q     And what is that?

20           A     That he essentially -- my initial conclusion was  
21 essentially accurate and remains the same and didn't in any way  
22 alter my feelings relative to what Mr. Creech represents.

23           Q     Did you -- directing your attention to November 4,  
24 1974, Doctor, do you have any opinion as to whether or not the  
25 defendant was suffering from any mental disease or defect at

1 that time?

2 A. You -- that is a question relative to that, the  
3 specific time during which he involved himself in the  
4 circumstances for which he is now in legal difficulty?

5 Q. Yes, the time of the incidents which are now on  
6 trial.

7 A. Yes, that's -- yes, I do.

8 Q. And what is your opinion?

9 A. I'm of the opinion that he was not suffering from  
10 any significant mental disease or defect at that time.

11 Q. In your examinations of the defendant, did you find  
12 any evidence of his ability to -- in manipulating people?

13 A. Well, a good deal has been said about Mr. Creech's  
14 ability to manipulate people, at least as I sat and listened to  
15 it here in the courtroom today and he's asking me, I think, that  
16 did I notice his manipulative qualities; that is, the way he  
17 presents himself in his attempt to engage from deception.

18 I think those are obvious. I think the fact that he  
19 is intentionally manipulative and tries to set himself up in  
20 such a fashion that he appears truly powerful and, at the same  
21 time, not responsible, are very apparent and I don't think that's  
22 difficult to pick up. I think it's one of the things that makes  
23 him a -- essentially a very unreliable historian and why it's  
24 important to gather information elsewhere.

25 I think it's fairly obvious to most people who see

1 him that he is very much of a manipulator and I think he  
2 manipulates himself sometimes and I think it's obvious to others  
3 that he does that. If that answers your question.

4 Q Were you able to discern that he could manipulate  
5 people?

6 A Well, the question is, was I able to discern whether  
7 or not he was able to manipulate people. I think that the  
8 first thing you have to determine whether or not a person is  
9 being honest and then to see what and if he is manipulating and  
10 being deceptive, to what degree. I never talked with a great  
11 many people that he successfully manipulated, but it did seem  
12 to me that there were a great many people that were excessively  
13 caught up in a lot of the bait that he was throwing out, the  
14 highly emotional sensational issues that I think he just sort of  
15 did in order to make himself appear an important person.

16 So, in that sense I guess I did see him successfully  
17 manipulate some people.

18 MR. ROBINSON: Object then at this point, Your Honor,  
19 not response to the question and ask those unresponsive answers  
20 to be stricken.

21 THE COURT: Yes, I'll sustain the objection and strike  
22 the last statement, instruct you to disregard it, ladies and  
23 gentlemen.

24 Q BY MR. REMAKLUS: Dr. Estess, would you define the  
25 defendant as having a negative personality?

1           A.     Well, in the sense that he has caught himself up in  
2 what has sometimes been called, maybe, a negative personality,  
3 but a negative identity, i.e., or that is, Mr. Creech has, since  
4 early on in his development gotten rewards and gratification  
5 from being bad. Early on in life he began to be sort of a  
6 "bad hombre", you know, like he did bad things and he got a lot  
7 of repercussion from the community that he lived in and a lot  
8 of people might say that that's really bad that nobody would  
9 want that. It's like a little boy in a family who does bad  
10 things, gets spanked by his dad because he never pays any  
11 attention to him and, so, he does bad things just to get some  
12 attention; even though it's negative and in that sense I think  
13 that Mr. Creech has evolved into the kind of personality who  
14 involves himself in behavior of a negative type in order to get,  
15 as it were, the rewards of being bad.

16                 So, consequently, I do see him as having a negative  
17 identification as part of his personality problems, i.e. that's  
18 what he does for goodies, i.e., that's bad and the more "badder"  
19 he is, to use a bad term, essentially the more rewards he gets.  
20 So, in that sense, he has a negative identity in my mind.

21           Q.     Doctor, do you think that he demonstrated this  
22 throughout the time that he has been in custody for this  
23 offense?

24           MR. ROBINSON:   Objection to the leading form of the  
25 question, the form of the question in itself, Your Honor.

1 THE COURT: Sustained.

2 Q BY MR. REMAKLUS: Dr. Estess, do you have an opinion  
3 as to whether or not this type of conduct was engaged in by the  
4 defendant while in custody on this charge?

5 MR. ROBINSON: Objection, Your Honor, form of the  
6 question. May I ask a question of the witness in aid of  
7 objection?

8 THE COURT: Yes.

9

10 VOIR DIRE EXAMINATION

11 BY MR. ROBINSON:

12 Q Dr. Estess, you've related to us the specific  
13 number of hours that you spent with Tom; have you not?

14 A Yes, I have.

15 Q And the total of those hours are how many, sir?

16 A With Tom himself about two and a half.

17 Q All right. And would your answer to this question  
18 asked you by Mr. Remaklus depend only and solely upon your  
19 inquiry to other persons as to how Tom was getting along?

20 A No, not at all. As a matter of fact, a good deal  
21 of the conversation that I had with Mr. Creech at the time that  
22 I saw him in the Ada County Jail had to do with his relative  
23 adjustment in that, you know, in the jail facility and so  
24 forth and so on.

25 So, I believe that I actually have engendered some

1 information from both sources, both Mr. Creech and others, as  
2 it related to persons, you know, that he's been involved with.

3 Q But, you haven't seen him since December of '74?

4 A No, that's not true. I've seen him -- as a matter  
5 of fact, I was in my office in September, I didn't sit down  
6 and engage in any lengthy conversation with him as a result of  
7 that, no.

8 Q You mean, you saw him when he was there to see  
9 Dr. Heyrend?

10 A Well, that's correct and I spoke with him at that  
11 time, yes.

12 MR. ROBINSON: We would object, no proper foundation  
13 for this question, Your Honor.

14 THE COURT: Yes, I'm going to sustain the objection.  
15

16 DIRECT EXAMINATION (Continued)

17 BY MR. REMAKLUS:

18 Q In making your evaluations of this defendant, did  
19 you use either of the drugs Sodium Ametol or Ridelene?

20 A No, I did not.

21 Q Why not?

22 A Well, for a number of reasons, not the least of  
23 which is that they -- as far as I'm concerned, don't  
24 necessarily allow one to get any extra or any more valid  
25 information from people. It was explained earlier to the Court



1 that sometimes people spill out information sort of as a result  
2 of their being intoxicated on Ametol and being "juiced up" with  
3 a stimulant like Ridelene; which is like speed, or it's a  
4 stimulant, that's true. But, it's not -- one really can't  
5 place any degree of validity on what comes out as a result of  
6 that information. It's, most often, used for gathering sort of  
7 factual information as it relates to psychological kind of things.  
8 I think it's highly unreliable and not necessarily valid; no  
9 more valid than getting someone intoxicated, just like when you  
10 talk with a friend who has had a lot of alcohol. Sometimes they  
11 say things that they don't say when they're not intoxicated.  
12 But, just how much credibility to put in that is questionable.

13 In my experience Ametol interviews are sometimes  
14 used to talk with people about things, or to get at material  
15 that's very emotionally laden and conjures up a lot of  
16 anxiety in them; more as a treatment process than anything, and  
17 as an evaluating process. I don't find it very useful and  
18 just haven't used it for that reason.

19 Q Doctor, what does "moral insanity" mean?

20 A I'm not sure that I could give you a good answer  
21 to that question.

22 Q I think the expression was used here this morning.  
23 I was wondering if you had overheard it.

24 A Yes, I heard it. It's not a term which I use, but  
25 I -- of course, it relates to a value system. Morality is



1 generally used by those people who operate out of moralistic  
2 frame of reference and -- as for instance Christianity or  
3 religious frame of reference and "moral" is a term which people  
4 use who themselves are moralistic; that is, who themselves have  
5 religious beliefs.

6 There are a lot of religious beliefs, moral  
7 insanity from a psychiatric prospective is just a term and the  
8 person who uses it would have to define it in terms of what  
9 they mean. It doesn't have any standard interpretation that  
10 I'm aware of.

11 Q Could you tell us what schizoid resistant  
12 sociopathic personality means?

13 A As I indicated -- you know, everybody has a  
14 personality. Like for instance, in order to go to medical  
15 school you have to be the type of person who pays a lot of  
16 attention to detail, they are orderly. They are adjectives to  
17 describe what people are.

18 There are about -- depending upon who you read,  
19 somewhere between six and one or six and eight personality  
20 diagnoses; that is words which you'd use to describe what a  
21 person is like.

22 A schizoid personality, when used like that, is  
23 just purely a descriptive term and what it means is that the  
24 person tends to react to stress by withdrawal, isolation. They  
25 tend to be intellectually and emotionally aloof, distant. They

1 are the characters in our society termed recluses, people who  
2 don't share much and when placed under stress they tend to  
3 withdraw into sort of isolation, internal isolation within  
4 themselves, they are secretive; that sort of thing.

5 So, the term "schizoid" has implications primarily  
6 to how a person will deal with certain things, the environment  
7 surrounding and stress. So, now, the other terms which you  
8 used, "resistant" and "paranoid".

9 Just as a point of explanation for the sake of the  
10 jury, perhaps when you have -- people aren't necessarily just,  
11 say, for instance, a schizoid personality, obviously those are  
12 terms which essentially mean that a person manifests, perhaps,  
13 a lot of different symptoms like Mr. Creech, in my mind, is not  
14 merely a schizoid personality. He does have certain schizoid  
15 features about his personality, you know, like he does tend to  
16 react in some ways similar to a schizoid personality.

17 Paranoid was another term, "resistant paranoid".  
18 Well, resistant is not a term that means a whole lot to me and  
19 I don't use that. A lot of people are resistant to being found  
20 out and sort of being, you know, we all -- that's one reason  
21 we don't like to see a psychiatrist because they feel like they  
22 can read your mind. So, we resist that, you see. In that  
23 sense certainly Mr. Creech is resistive like a lot of people.

24 Paranoid is a personality-type and is characterized  
25 by a person who feels tremendous feelings of inferiority and

1 inadequacy and is very easily threatened and timid and in him  
2 they shy interiorly; that is, they are easily threatened,  
3 very sensitive and scared and in that sense those adjectives,  
4 in my mind, would, for instance, fit Mr. Creech as it relates  
5 to how he feels about himself. So that he tends to see in  
6 others the things which he fears about himself, i.e., a lot of  
7 things, so they tend to handle, when they are placed in stressful  
8 circumstances, they tend to do what we call "project"; that is,  
9 they project onto others how they feel about themselves, they  
10 treated me bad, these people deserve that because they do this,  
11 this, this, when, really, secretively they're worried that  
12 that's the kind of person that they are.

13 So, in a sense it's just another label that implies  
14 how a person tends to feel with the world around them.

15 So, in my mind, schizoid and paranoid are terms  
16 that are just sort of are adjectives if you were to sort of  
17 describe some of the ways that a person like Mr. Creech would  
18 behave under certain circumstances. Resistive is -- I dealt  
19 with rather glibly, but that's how I would explain it. My  
20 resistive is a term which people fairly easily understand.

21 Q Now, based on your examinations of the defendant,  
22 directing your attention to the November 4, 1974, did you have  
23 -- feel at that time that he was responsible for his conduct?

24 A Yes, I think he was.

25 Q Do you feel that upon that date that he could

1 differentiate between right and wrong?

2 A. Yes, I think he could.

3 Q. Do you think upon that date that he had the ability  
4 to conform his conduct to law and act in the legal manner?

5 A. Yes, I think he could have.

6 Q. Do you have -- could you give us some reasons why  
7 you come to those conclusions, Doctor?

8 A. Well, again, admittedly it's very hard to try to  
9 determine, retrospectively, what a person, that is, you know,  
10 at some time in the past what a person's mental state or what  
11 a person's psychological function is like, say, at a given  
12 point in time when you weren't there. Well, if you weren't how  
13 could you really say.

14 Well, there are some ways to get at that relatively.  
15 That's where a longitudinal -- that is where longitudinal  
16 developmental history is important, i.e., is the behavior that  
17 is -- his behavior that is manifested at a given point in time  
18 different from, unusual from, or deviant from that which he,  
19 for instance, has done always before or is it the same.

20 Like the "All American Boy", you know, the all  
21 American quarterback for the football team who, all of a sudden  
22 does something strangely out of character, for instance,  
23 engaging in behavior that is deviate, very unusual for him; or  
24 has he been engaged behavior of a similar nature that is  
25 erratic, you know, kind of impulsive, inviolate from early on,

1 in other words.

2 So, the longitudinal history is important as it  
3 relates to some general feelings whether or not the behavior  
4 is manifested by the person at a given point in time fits in;  
5 I mean, is it sequential; that is, does it follow.

6 The other thing that's -- and you have to get at  
7 that and that, obviously, comes, most generally, from  
8 informal or some from others.

9 The other thing is, is some reasonable ability of  
10 the person himself to describe with clarity the events  
11 surrounding the episodes, or the behavior that he involved  
12 himself in at that point in time because one of the things that  
13 the Court initially wanted from me was whether at the time that  
14 he involved himself in this behavior, was he sane and was his  
15 behavior a product of mental disease and defect.

16 One of the things that is significant is people  
17 who frequently -- or are mentally ill or frequently confused in  
18 their thinking and it's hard for them to engage in what we  
19 would think of as oriented behavior; that is, do things with  
20 consistency and remember it with clarity and follow through by  
21 design and, you know, figure out certain kinds of things and  
22 follow through with them.

23 In other words, their follow-through with their  
24 thinking sometimes is not clear so you can match their  
25 recollection of what occurred with the reported facts as best --

1 for instance, as the legal people can come up with them, at that  
2 time any point in time and at this particular instance there  
3 was another party present and --

4 THE COURT: I don't think the Doctor is permitted to go  
5 into anything that the defendant told him at the time of the  
6 interview and, under the Statute that's prohibited and I'm not  
7 going to let him testify to that.

8 MR. REMAKLUS: Yes, we understand.

9 THE WITNESS: Pardon? Could I ask the Court a question?

10 THE COURT: Yes.

11 THE WITNESS: I did not understand.

12 THE COURT: I say, you are not permitted to reveal  
13 anything that the defendant told you at the time of your  
14 interview with him. I'm not going to permit you to testify as  
15 to anything he revealed to you specifically.

16 THE WITNESS: Okay, because I didn't want to do it if  
17 you didn't want me to. I'm not sure I was going to actually.

18 THE COURT: Well, I didn't want you to.

19 THE WITNESS: Thank you.

20 Q BY MR. REMAKLUS: Dr. Estess, do you think the  
21 defendant is capable of premeditation and malice aforethought?

22 A Yes, I do, yes.

23 Q Do you think that upon November 4, 1974, he was  
24 capable of premeditation and malice aforethought?

25 A I think he was.

1 Q Now, without violating what the Judge has  
2 instructed, can you tell us what you base that opinion on?

3 A Well, again, the process that I went through to  
4 evaluate things, the subject regarding the whole issue led me  
5 to the conclusion that, in fact, he was operating in a relatively  
6 consistent manner; that is consistent with the way he has  
7 essentially always behaved and, in fact, this behavior, though  
8 socially -- in a sense socially deviant, was consistent with  
9 things that, in terms of how he looks at things in a sense and  
10 I think he had the flexibility to pretty much do whatever he  
11 wanted to before, during and after his behavior that he got into  
12 that has gotten him in trouble.

13 Q Doctor, what manipulative acts did you observe the  
14 defendant engaging in?

15 A Well, specifically with regards to my interview  
16 session with him, which I thought was -- he was quite  
17 cooperative, you know, really with me, and I thought in a sense  
18 very straight, that is with me. But, I believe rather  
19 obviously he told me things which he knew which I knew weren't  
20 accurate and I just went ahead, along with those things and  
21 chose not to comment on them. It was almost as if it was a  
22 game which, I am confident he knew about and so did I.

23 Because he knew that I was not going to place in a  
24 position of incriminating him, I mean, he obviously  
25 circumvented certain areas of his personal life and, obviously,



1 just sort of engaged in conversation about things which, to me,  
2 were patently sort of absurd and relatively sensational and he  
3 actually seemed sort of impressed that I wasn't impressed  
4 because I think he thinks well and I think he knows when he is  
5 impressing people. So, in a context of my conversations with  
6 him I thought it was all apparent just right there in the room  
7 between he and I; if that answers your question.

8 Q Doctor, did you elicit, or did you discuss with the  
9 defendant, anything about Satanism in your interview with him?

10 A Yes, I did.

11 Q And did you attach any significance to that?

12 A No, not really, because, again, in the effort to  
13 set himself up as kind of an important person, one of the  
14 things that Mr. Creech has done is attach himself to things  
15 which people are really sort of impressed with and the  
16 sensationalism of a Satanistic, or mystical kind of a religious  
17 organization has just got, really gets some neat emotional  
18 response from people, you know.

19 So the fact that he would sort of involve himself  
20 with that, or try to make it appear to me at any rate that  
21 that was a big part of his life was clearly, in my mind,  
22 consistent with everything else that he was doing; which was  
23 sort of aligning himself with the sensational.

24 I went into it just long enough to allow him to  
25 give me some information relative to that that he thought was



1 important. But, as I look at that I see that as just sort of  
2 consistent with what he's done in a lot of the areas. You know,  
3 and the fact that I see him as very terrified person who has a  
4 need for powerful things and, after all, you know, if you can  
5 buy the fact that he's involved in this, some sort of bizarre  
6 mystical organization, then he has some tremendous powers as a  
7 result of his association with that organization.

8 I see that as just, primarily a lot of stuff. I  
9 mean, basically, to be honest, to use a non-psychiatric term.

10 Q What does dilusional mean, Doctor?

11 A Well, a dilusion is a psychiatric term which we  
12 use a lot and a dilusion is an incorrect or false idea or  
13 belief which is not subject to rational argumentation or  
14 reasonable.

15 In other words, it's a belief that is false, that  
16 is not subject to rational argumentation. A person who is  
17 dilusional like, say, for instance, a lady who believes she's  
18 the Virgin Mary, she's dilusional but maybe in fact believes  
19 that as a result of religious experiences which she has had which  
20 convinces her of that. That would be a dilusional -- that's  
21 dilusional thinking and, if she acted as if she were the  
22 Virgin Mary then her very behavior would be based upon her  
23 dilusional thinking, i.e., incorrect or false idea.

24 Q Did you find any evidence of that in the defendant?

25 A No, I did not.

1 Q Doctor, what does "board certification" mean?

2 MR. ROBINSON: Objection, Your Honor, repetition. I  
3 believe we went into this.

4 MR. REMAKLUS: I think he used the expression but I  
5 don't think he defined it.

6 THE COURT: Overruled. Go ahead.

7 Q BY MR. REMAKLUS: Would you answer.

8 A Board certification, which was the term we touched  
9 on earlier, the American Board of Psychiatry and Neurology is  
10 the arm of the American Medical Association. It is a  
11 specialty board, like the American Board of Cardiovascular  
12 Surgery, the American Board of Internal Medicine. It is an  
13 organization set up by the American Medical Association to  
14 pass on the standards for training specialists in these  
15 different areas.

16 So, for instance, a medical school can set up a  
17 program, say, to train psychiatrists, their training program  
18 has to be approved by the American Board of Psychiatry and  
19 Neurology, for instance. That's one of their functions.

20 Another board certification is a specific process  
21 that one goes through after completing their training in an  
22 approved, say, residency; which is a period of training. It  
23 consists of a specific kind of examination. You can't -- you  
24 can't take it until after you complete your training that is  
25 finished, a residency, two years after you finished your

1 residency. You are subjected to a written examination which  
2 takes the better part of a day. A year later you are required  
3 to take an oral examination where you clinically evaluate  
4 people and are interrogated by a variety of examiners. The  
5 reason that they put the board examinations off for a period of  
6 time beyond your training is because it is an effort on the  
7 part of the American Board and, in this case, of Psychiatry and  
8 Neurology, to encourage postgraduate education and to select  
9 out those individuals who have academic and kind of follow-up  
10 interests and to encourage advanced postgraduate kinds of  
11 education.

12 So -- and it is, quite honestly, it is the top  
13 certification for any specialty, internal medicine, surgery,  
14 psychiatry, neurology; whatever. If that answers it.

15 Q You are board certified, aren't you?

16 A Yes, I am.

17 MR. REMAKLUS: You may examine.  
18  
19  
20  
21  
22  
23  
24  
25

CROSS EXAMINATION

BY MR. ROBINSON:

Q Doctor, almost every patient that comes in to see you is deceptive; aren't they?

A I don't believe I'd agree with that.

Q They try to deceive you as to the true nature of whatever ails them?

A All I can say is I don't know that I agree with that at all.

Q Well, they come right in and tell you what's wrong with them? They don't go beating around the bush and you have to dig out by your inquiries, interrogation, to help them understand what their disorder might be?

A No. As a matter of fact quite honestly a great many people that I see present themselves very honest and straightforward and are not the least bit deceptive, at least in a conscious way.

They may be deceiving themselves, but they are very straightforward a lot of times and how they present themselves and in no way would I consider the large percentage of people that I see intentionally deceptive.

Q I take it that's what you describe as part of the mechanism in all of us, we kind of --

A I said intentionally and voluntarily. You know if you are saying that in that sense everybody deceives themselves,

1 which is not what you said. I suppose that, to some degree,  
2 that may be true, but that's not the question you asked me, I  
3 don't think.

4 Q Oh, all right. That's a good enough answer for me.  
5 What year did you come out of Texas Medical School?

6 A I graduated in medical school in 1966.

7 Q And then your psychiatric qualifications were  
8 fulfilled in what year?

9 A I did a year of internal medicine from '66 to '67  
10 and from 1967 until 1970 I was involved in residency in  
11 psychiatry and neurology.

12 Q Where was that?

13 A That was at the University of Texas Medical Branch,  
14 John Seeley Hospital, Galveston, Texas.

15 Q And you entered the practice of psychiatry when?

16 A I entered the military in 1970 for two years and  
17 then I entered private practice in 1972.

18 Q Okay. Moral character, Doctor, you were describing  
19 in regards to the question moral insanity. The only disease  
20 to moral character is sin; isn't that correct?

21 A Well, that's your definition of it. I mean, I  
22 don't know what you are asking me.

23 Q Isn't that the definition that they give in the  
24 book?

25 A Of what?

1 Q American Handbook on Psychiatry.  
2 A Of what?  
3 Q Moral character, the only disease is sin.  
4 A Well, as I said earlier, moral sanity, in that  
5 sort of issue, is something which I haven't addressed myself to  
6 and I suspect that sin would be something that -- that's another  
7 term which is not a psychiatric term. It's a term which people  
8 use. They take in -- again, I think you are talking about a  
9 very -- kind of isolated set of issues.  
10 Q That would get into the field of Christianity-Satanism  
11 A No. As far as I'm concerned, Christianity and  
12 Satanism are in the area of religion and religion, yeah, sure.  
13 In other words, those are terms that people would use in the  
14 area of religion.  
15 MR. ROBINSON: I don't have any further questions.  
16 MR. REMAKLUS: May I?  
17 THE COURT: Yes.  
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REDIRECT EXAMINATION

BY MR. REMAKLUS:

Q You practiced psychiatry while you were in the Service; didn't you?

A Certainly, yes.

MR. REMAKLUS: I have nothing further. Thank you, Doctor.

MR. ROBINSON: Nothing further and I will stipulate that Dr. Estess can be excused, Your Honor.

MR. REMAKLUS: Thank you.

THE COURT: Yes, you may step down. You may be excused if you want to leave.

MR. REMAKLUS: Call Dan Carey, Your Honor.

DAN CAREY,

a witness on behalf of the State, being first duly sworn on rebuttal examination, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. REMAKLUS:

Q Will you state your name, please.

A Dan Carey.

Q And where is your residence, Mr. Carey?

A Right now, Malott, Washington.

Q And what are you doing over there?

A I'm spreading the gospel of Our Lord Jesus Christ.

Q Are you doing any labor for hire or for gain?

A No, sir, I'm -- I belong to a non-profit Christian organization.

Q Have you been working over there at some physical labor?

A Yes, sir, right now picking apples.

Q And now, where is your home town, Mr. Carey?

A Lewiston, Idaho.

Q Did you grow up in Lewiston?

A Lewiston-Grangeville area.

Q How long had you lived in Lewiston?

A Approximately seven years, maybe.

Q And directing your attention to the 3rd day of November, 1974, were you in Lewiston, Idaho?

A Yes, sir, I was.

Q And what were you doing in Lewiston at that time?

A I was attending Lewis and Clark Vocational Schools.



1 Q What were you studying?  
2 A Auto mechanics.  
3 Q And where did you graduate from high school,  
4 Mr. Carey?  
5 A I didn't graduate. I attended Lewiston High.  
6 Q And are you acquainted with Carol Spaulding?  
7 A Yes, I am.  
8 Q How long have you known Miss Spaulding?  
9 A I'd say approximately five years.  
10 Q Did you ever go with Miss Spaulding?  
11 A Off and on over the times.  
12 Q What period of time would that cover?  
13 A The actual time involved that I was going with her?  
14 Q Yes. Now, I'm having trouble hearing you and I'm  
15 sure the jury is too. Would you speak up a bit.  
16 A Maybe two years at that time.  
17 Q So I understand, you say you had been going with  
18 her off and on for two years before November 3rd, 1974?  
19 A Yes, sir.  
20 Q And do you know where she lives in Lewiston?  
21 A At her mother's house.  
22 Q You've been there many times; have you not?  
23 A Yes, I have.  
24 THE COURT: You'll have to speak louder, they are having  
25 a hard time hearing you. Speak to the lady right over in the

1 corner. Speak loudly enough for everybody to hear you.

2 Q BY MR. REMAKLUS: Mr. Carey, did you see -- have  
3 occasion to visit Carol Spaulding on either November 2nd or 3rd,  
4 1974?

5 A I heard Miss Spaulding was in town November 2nd;  
6 which was a Saturday, and that evening I went down to see her.

7 Q And when you say you went down to see her, where  
8 did you go?

9 A To her mother's house.

10 Q And did you see her that evening?

11 A Yes, I did.

12 Q And on that occasion -- or do you know the defendant  
13 Thomas Creech?

14 A Yes, I do.

15 Q And when was the first time you saw him?

16 A That evening of November 2nd.

17 Q Now, is that one in the same person that's seated  
18 at counsel table?

19 A Yes, it is.

20 Q And, for the record, would you describe what he is  
21 wearing?

22 A Black shirt and pair of slacks.

23 MR. REMAKLUS: May the record show, Your Honor, he  
24 indicated the defendant?

25 THE COURT: Yes.

1 Q BY MR. REMAKLUS: Did you, other than seeing  
2 Mr. Creech on the second of November, 1974, did you have any  
3 contact with him?

4 A That's the only time I've ever met him; other than  
5 inside this courtroom, only time I've ever seen him.

6 Q And what, if anything, did you do and the defendant  
7 that night?

8 A We drove around in my car, the defendant,  
9 Carol Spaulding and myself, approximately an hour that evening.

10 Q And what kind of a car do you have?

11 A A Buick Skylark, '65.

12 Q And were you driving the car?

13 A Yes, I was.

14 Q About how much time -- tell me what you did that  
15 night, please.

16 A Well, we smoked some pot, Mr. Creech also purchased  
17 some beer at Albertson's in Clarkston, I believe it was, and  
18 we drove back to Lewiston. We set in the park and we drank  
19 the beer and smoked the pot and we talked for approximately  
20 an hour, at which time afterwards we left and I took  
21 Mr. Creech and Carol back over to her mother's house.

22 Q Do you have any idea what time of day this was,  
23 Mr. Carey?

24 A It was early evening, maybe, perhaps 7:00, 7:30.

25 Q And directing your attention, did you stay there in

1 Lewiston that night?

2 A I stayed in Clarkston that night at my mother's  
3 house.

4 Q Um-hmm. Now, directing your attention to the next  
5 day; which would have been Sunday, where did you spend Sunday,  
6 November 3rd, 1974?

7 A Sunday I was also at my mother's house.

8 Q And how can you remember these dates?

9 A November 2nd I had put new tires on my car; which  
10 my mother found a set of, so that was how I remember that date  
11 and the following day, November 3rd I discovered that the  
12 battery in my Buick had tipped over and the acid spilled out  
13 so my car wasn't working that day.

14 Q And where did you spend that day?

15 A Spent most of the day at my mother's house and I  
16 left a couple times to attend church that Sunday morning and  
17 that Sunday evening.

18 Q And where did you stay Sunday evening? Sunday night.

19 A At my mother's house.

20 Q And where is that, please?

21 A In Clarkston, Washington.

22 Q And, then, directing your attention to the Monday,  
23 the 4th day of November, 1974, where did you spend the day?

24 A Monday I spent the day, from approximately 8:00 a.m.  
25 to 3:00 p.m. in class.

1 Q Whereabouts?  
2 A You mean --  
3 Q In class where?  
4 A At Lewis and Clark.  
5 Q And where is that?  
6 A In Lewiston, Idaho.  
7 Q Was that at this auto mechanics class?  
8 A Yes, it was.  
9 Q And how did you get to school that day; do you  
10 remember?  
11 A My mother drove me.  
12 Q And where would she have driven you from?  
13 A From her residence in Clarkston.  
14 Q And how do you happen to remember that particular  
15 day?  
16 A That particular Monday?  
17 Q Yes.  
18 A Well, I remembered that she drove me because, like  
19 I said, the battery was spilled over in my car and the acid  
20 spilled out and the service station where she always took my  
21 stuff to be worked on was closed because it was Sunday. So,  
22 the battery could not be fixed until Monday. So, I remember  
23 that she did drive me because my car at that time was still not  
24 working.  
25 Q At any time on November 3rd of 4th, 1974, were you

1 in the vicinity of Donnelly, Idaho?

2 A No, sir, I wasn't.

3 MR. REMAKLUS: You may examine -- I have one more  
4 question.

5 MR. ROBINSON: Go right ahead, Counsel.

6 Q BY MR. REMAKLUS: Did you kill Tom Arnold or  
7 Wayne Bradford?

8 A No, sir, I didn't.

9 MR. REMAKLUS: You may inquire.

10

11

CROSS EXAMINATION

12 BY MR. ROBINSON:

13 Q Are you the Dan that Carol identified as being the  
14 father of her son born this year, June 30th?

15 MR. REMAKLUS: Object to facts not being in evidence.

16 THE COURT: Sustained.

17 MR. ROBINSON: No further questions.

18 MR. REMAKLUS: I have nothing further.

19 THE COURT: You may step down.

20 MR. REMAKLUS: Probably need a recess, Your Honor.

21 THE COURT: We'll take a ten-minute recess if you will  
22 remember the admonition, don't discuss the case and keep your  
23 minds open.

24 (Recess taken.)

25 THE COURT: Show the jurors are all present.

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Call your next witness.

MR. REMAKLUS: Your Honor, the trial has moved along more rapidly than we had anticipated and our next witness will not be available until 9:30 in the morning. We would, therefore, request an evening recess.

THE COURT: I guess the jurors are all tired anyway so they are ready for a recess.

We'll take our evening recess, then, ladies and gentlemen, until 9:30 tomorrow morning. If you will remember the admonition, don't discuss the case and keep your minds open.

(Recess taken.)